



AGENDA OF THE WORKSHOP AND  
REGULAR MEETING OF THE CITY  
COUNCIL  
CITY OF BIRCHWOOD VILLAGE  
WASHINGTON COUNTY, MINNESOTA  
October 10, 2017  
6:30 AND 7:00 P.M.

NOTE: Due to Open Meeting Law restrictions, the City Council may be discussing agenda items for the first time. Your patience and understanding is appreciated during this process.

**CITY COUNCIL WORKSHOP – 6:30PM**

**CALL TO ORDER**

**CITY BUSINESS – WORKSHOP AGENDA**

- A. Snow Removal Contract\* (pp. 3-9)  
*Time Budget: 15 Minutes*
- B. Parks Committee Guiding Principles\* (pp. 10-11)  
*Time Budget: 10 Minutes*
- C. RCWD Letter\* (p. 12)  
*Time Budget: 5 Minutes*

**ADJOURN**

**REGULAR CITY COUNCIL MEETING – 7:00PM**

**CALL TO ORDER**

**PLEDGE OF ALLEGIANCE**

**APPROVE AGENDA**

**OPEN PUBLIC FORUM**

**ANNOUNCEMENTS**

- A. Fall Leaf Pickup – Dates TBD (see enclosed)\* (p. 13)
- B. Calling for Volunteers to Help at the Ice Rink this winter. Contact City Hall
- C. Final reminder to complete Parks and Dog Park survey found on City website
- D. Halls Marsh Project is Nearing Completion; Water Levels Already Dropping
- E. We are social, follow us on Facebook/Twitter or register for the email listserv

**ADMINISTRATIVE PRESENTATION**

\* Denotes items that have supporting documentation provided

- A. Sheriff Report\* (p. 14)
- B. Wildwood Park Improvements\* (p. 15)

**CITY BUSINESS – CONSENT AGENDA**

- A. Approval of Regular Meeting Minutes from September 12, 2017\* (pp. 16-19)
- B. Approval of Treasurer’s Report\* (pp. 20-30)
- C. Approval of Resolution 2017-22, Extension of Interim City Administrator\* (pp. 31-32)
- D. Order Public Improvement Hearing for Sewer Lining Project\* (p. 33)

**CITY BUSINESS – REGULAR AGENDA**

- A. Roads Committee Update and Recommendations
  - a. Cedar/Hall Stripping Quote and Recommendation\* (pp. 34-36)
  - b. Snow Removal Contract and Recommendation\* (pp. 3-9)

*Time Budget: 20 Minutes*
- B. First Reading Ordinance 2017-01-01 – Impervious Surface Amendment\* (pp. 37-39)
  - a. Public Hearing
  - b. Council Deliberation and Consideration of Approval

*Time Budget: 30 Minutes*
- C. Planning Commission Recommendations
  - a. Right of Way Ordinance\* (pp. 40-62)

*Time Budget: 20 Minutes*

  - b. Zoning Administration Amendment – Ordinance 2017-10-01\* (pp. 63-68)

*Time Budget: 10 Minutes*
- D. Council Member Reports:
  - a. Councilmember LaFoy
    - i. Update: .Gov Website Purchase
  - b. Councilmember Woolstencroft
    - i. Update: City Hall Table Donation

*Time Budget: 5 Minutes*
- E. City Administrator’s Report
  - a. Kay Beach Dock – Removal and Ladder Purchase\* (p. 69)
  - b. City Diseased Trees\* (p. 70)
  - c. Hall/Cedar Tree Trim and Removal\* (p. 71)
  - d. Birch Easement Catch Basin Cleanout Quote\* (p. 72)

*Time Budget: 15 Minutes*
- F. City Attorney Report

**ADJOURN**

\* Denotes items that have supporting documentation provided

# MEMORANDUM

DATE: October 10, 2017

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TO: Birchwood City Council  
FROM: Tobin Lay, City Administrator  
SUBJECT: Snow Removal Contract



**Birchwood Village**

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Dear Mayor and Council Members,

## Overview

Earlier this year, the City's snow removal contract with Birch expired. The City Council approved the Roads Committee to assist staff with searching for the next snow removal contractor.

Staff and members of the Roads Committee (hereinafter referred to as "the committee") approached five (5) different contractors regarding the City's snow removal contract and have received one (1) bid from Birch (enclosed). Due to Birch's history with the City and the lateness in the season, staff and the Roads Committee recommend the Council approve Birch's bid. Birch's hourly rates are not much different from the expired contract; what's new is a term of three (3) years on the contract.

## 2 Inches vs. 1 Inch

The Birch bid provides the following two (2) plowing options:

- A) Plow streets upon cessation of snowfall or once snow accumulates to 4 inches, whichever comes first, OR
- B) Plow streets on any snowfall over 1 inch.

The last contract with Birch provided that they plow the streets "following each snowfall of two (2") or more."

Every city contacted by the committee recommended that Birchwood lower the plowing trigger. Many cities use a 1 inch trigger and some even have a bare pavement policy. Having a 2 inch trigger means that the snow on Birchwood's streets is compacted into ice – making it more slippery and more difficult to remove. This is problematic given most of Birchwood's streets are shaded by our tree canopy. Those cities contacted by the committee each attributed successful snow removal to plowing early and often.

Birchwood has suffered from poor road conditions in previous winters despite having a dedicated snow removal service. Staff received complaints of slippery roads regularly. The committee believes that these poor conditions are directly related in part to the 2 inch trigger used in past winters.

## Pretreatment Service

The Committee has met with several surrounding communities to research methods for improving snow and ice removal from Birchwood's streets. The feedback from this research is that pretreating the roads with saline brine prior to a snowfall will significantly improve snow removal effectiveness and will decrease the amount of salt used on the roads. Mahtomedi, for example, has seen a 60-70% reduction in salt use due to pretreatment and using treated salt.

Last season, Birchwood purchased 29.27 tons of salt from Washington County at \$88.96 per ton (over \$2,600). 60% savings of that would be 11.708 tons of salt at \$1,041.54. The committee has discussed with Mahtomedi the possibility of purchasing saline solution from them for the cost of salt only; Mahtomedi only mixes standard saline solution.

Birchwood can also purchase its solution from Washington County but at a much higher cost; \$2/gal. for standard saline and \$3.60/gal. for chemical deicer.

Birch does not currently own pretreatment equipment but is willing to purchase the necessary equipment at their own expense as long as Birchwood agrees to a three (3) year contract.

**Request/Recommendation**

The committee strongly recommends that Council approve "Option B" from Birch's bid and approve the use of pretreating Birchwood roads for the following reasons:

- 1) To decrease compact snow and ice on our streets;
- 2) To reduce the amount of salt used each winter;
- 3) To reduce the pickling effect in White Bear Lake caused by salt runoff;
- 4) To increase the effectiveness of snow and ice removal from our streets; and
- 5) To improve safety on our streets.

Furthermore, staff requests that Council authorize City Administrator Tobin Lay and City Attorney Kantrud to:

- 1) Negotiate contract terms and enter into agreement on behalf of the City with Birch in accordance with the enclosed bid; and
- 2) Negotiate and enter into agreement with Mahtomedi to purchase saline solution from Mahtomedi's Public Works Department.

This authorization will have to wait for the regular City Council meeting immediately following this workshop.

Thanks!

Regards,  
Tobin Lay

Enclosed: Birch bid



3100 Spruce Street | St. Paul, MN 55117  
P: 651.481.9180 | F: 651.481.0038  
www.**WEARE**BIRCH.com

City of Birchwood Village  
207 Birchwood Avenue | Birchwood, MN 55110

## Snow & Ice Management

**The goal for BIRCH Inc. as a Snow & Ice Management contractor for the City of Birchwood Village is to meet and exceed the expectations of the City Counsel. Listed below are options that we could provide as a contractor. Upon agreement between BIRCH Inc. & City of Birchwood Village, a meeting laying out the expectations between parties would need to be done**

### Snow Plowing:

- All city streets, City Hall parking lot, and parking areas at Tighe-Schmitz park skating rink is included in contract. Snowplowing will be plowed to approximately 1' of edges of streets when deemed possible.

### Snow Shoveling:

- City Hall sidewalk is included in contract

### Trigger Depth:

- 1" or more for full plow

### Terms:

- October 2017 – April 2020

### Timing:

- Option A: (as done for the past few years)
  - 'Full-plow' of city streets will begin either at cessation of snowfall or once snow accumulates to 4", whichever comes first; or at additional request by the City of Birchwood Administrator.
- Option B:
  - 'Full-plow' of city streets will begin at approximately 2:00am on any snowfalls over 1", plowing primary roads first (as highlighted on provided map) followed by secondary roads with the goal of having a majority of all the snowplowing completed by 7:00am. A plow truck will stay within the city until all plowing is completed; or at additional request by the City of Birchwood Administrator
  - Option B will help with morning commutes and school bus stops however overall plowing times will increase as areas will require getting plowed two times during one snow event.

**Pre-treating:** This is a new service that has been requested by the Roads Committee

- Main streets, pre-determined areas, and intersections would be pre-treated with either Salt Brine or Apex Magnesium Liquid deicer depending on street and air temperatures. Liquid deicers will be picked up by contractor from City of Mahtomedi and/or Washington County.



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### **Salting:**

- Less than 1" of snow
  - Primary streets and intersections will be salted, unless areas are melted due to pre-treating
  - Secondary streets will be salted as needed depending on road surface temperatures, air temperatures, snow compaction, etc...
- After full plowing of over 1"
  - Primary streets and intersections will be salted, unless areas are melted due to pre-treating
  - Secondary streets will be salted as needed depending on road surface temperatures, air temperatures, snow compaction, etc...
- Salt is picked up on behalf of City of Birchwood by contractor at Washington County during normal business hours.

### **Salt/Sand:**

- Salt/sand mixture can be applied when temperatures are too cold for salt to work effectively and/or when an icy condition occurs that needs instant traction.
- Salt/sand is picked up on behalf of City of Birchwood by contractor at City of Mahtomedi and/or Washington County during normal business hours.

### **Flagging:**

- Prior to plow season, BIRCH will flag/stake obstacles on edges of roadways. At seasons end flags will be removed.

### **Communication:**

- Contractor subscribes to a private weather data company and receives weather updates 2 times per day. Contractor also has multiple staff members on call 24/7 during the winter months to be able provide services as needed
- Main communication line will be between City of Birchwood Village City Administrator and BIRCH Inc. Account Representative.
- Site visits will be scheduled on a monthly basis or per request by the City of Birchwood Administrator
- Service Update email will be sent following completed services.
- Instant request/needs will be communicated with a phone call.

### **Equipment:**

- Contractor agrees to provide all equipment needed to perform the above services
- All equipment will be kept in well working condition
- All equipment will be equipped with DOT approved safety lights



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#### **Rates:**

- Plow truck equipped with a 8'-10' plow = \$90.00 per hour
- Single axel dump truck with salter = \$90.00 per hour
- Truck equipped with 300 gallon deicing tank = \$105.00 per hour
- Bobcat with snowblower = \$85.00 per hour
- Front end loader = \$185.00 per hour

#### **Terms and Conditions**

##### **Insurance**

Contractor will carry Worker's Comp. insurance, Commercial General Liability Insurance, Business Auto Insurance, and Commercial Inland Marine Insurance throughout the duration of this contract.

##### **License**

Contractor will carry all licenses necessary for the performance of these contracted services.

##### **Materials**

All material necessary for the satisfactory execution of the contracted will be supplied by City of Mahtomedi and/or Washington County.

##### **Surcharges**

The contractor reserves the right to pass on any substantial increase in fuel cost. (if fuel goes above \$4.00 per gallon)

##### **Damages**

- Contractor assumes full responsibility for damages caused by equipment during operations.
- Normal wear from piled snow is not considered damage.
- Contractor is not responsible for damage caused by the use of salt or ice melt products.
- Normal wear to paved surfaces during plowing is not considered damage.
- Contractor will use caution and make every effort to prevent damage however does not assume any liability for landscape damage caused while plowing snow.
- Contractor will exercise extreme caution to minimize any and all landscape damage, but cannot assume liability for damage for objects hidden under snow.
- Contractor will not be responsible for damage caused to deteriorated curbing and/or asphalt

##### **Cancelation**

- Representative or Administartor can cancel contract with a 60 day written notification.
- Contractor can terminate contract with a 60 day written notification.

##### **Payments**

- Payments for contracted services will be due 45 days after invoice
- Late or non-payment could result is suspension of services, termination of contact, and/or other legal means of collections.



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**Contacts:**

- Account Representative: Justin Rice
  - 651.248.5972
  - Justin@WeAreBirch.com
- Operations Manager: Jeff Niven
  - 763.242.4632
  - Jeff@WeAreBirch.com
- Vice President: Dan Steuernagel
  - 651.755.2651
  - Dan@WeAreBirch.com

A handwritten signature in black ink, appearing to read "Dan Steuernagel".

\_\_\_\_\_  
BIRCH, Inc.

Vice President  
Title

October 5, 2017  
Date

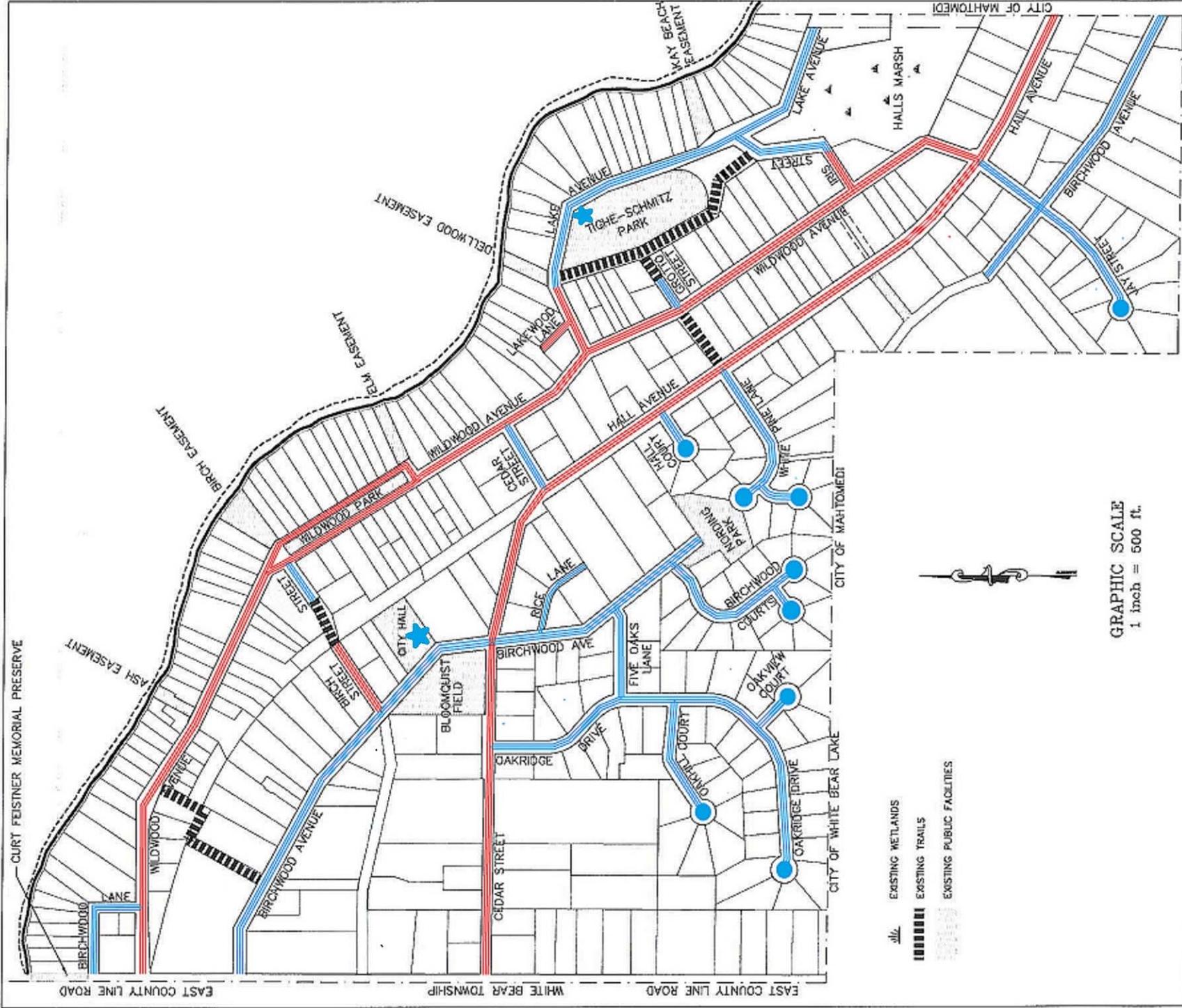
\_\_\_\_\_  
Property Representative

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

Signature of both parties represents acceptance of this contract

We encourage you to take 3 minutes to view our introductory video: [BIRCH Introductory Video](#) , and visit our webpage [BIRCH Webpage](#) .



-  EXISTING WETLANDS
-  EXISTING TRAILS
-  EXISTING PUBLIC FACILITIES



GRAPHIC SCALE  
1 inch = 500 ft.

UPDATED 9-22-2017

-  PRIMARY ROUTES (Plow First)
-  SECONDARY ROUTES (Plow Last)
-  Also parking lots and City Hall sidewalks/steps/ramp

## CITY OF BIRCHWOOD VILLAGE SNOWPLOWING STREET MAP

# MEMORANDUM

DATE: October 10, 2017

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TO: Birchwood City Council  
FROM: Tobin Lay, City Administrator  
SUBJECT: Parks Committee Guiding Principles



**Birchwood Village**

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Dear Mayor and Council Members,

The Parks and Natural Resources Committee created guiding principles and would like to use them to guide Committee Members through their actions and decisions as a committee.

Staff was asked to bring this topic before the City Council during this workshop to allow the Mayor and Council Members to discuss whether the Parks Committee Bylaws allows members of the Parks Committee to create guiding principles themselves.

Please see enclosed guiding principles and bylaws and discuss accordingly. Remember that no action can be taken during this workshop; any action would need to take place during the regular City Council meeting following this workshop.

### **Request/Recommendation**

Staff requests Council:

- 1) Review enclosed Parks Committee Guiding Principles and Bylaws; and
- 2) Discuss whether the Parks Committee has the authority to create guiding principles

Thanks!

Regards,  
Tobin Lay

Enclosed: Parks Committee Guiding Principles and Parks Committee Bylaws

## **Guiding Principles for Birchwood Parks and Natural Resources Committee 8/22/2017**

We will strive to understand what the residents of Birchwood want and need in their parks. Birchwood residents' agenda will drive our agenda.

We will operate in an open and forthright manner. Ethics and integrity are fundamental to the work of our committee.

We will prioritize work to first address the needs of and opportunities for our current portfolio of parks and natural resources before developing new initiatives.

We will engage nearby property owners when new or significant changes are being made to parks and trails

We will engage the community through communications, updates and opportunities to volunteer.

We will educate the community about the natural resources and parks we have so everyone is aware of what is theirs to use and enjoy.

We will respect the fragile nature of our environment. We will enhance the health and well being of our natural resources.

# MEMORANDUM

DATE: October 10, 2017

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TO: Birchwood City Council  
FROM: Tobin Lay, City Administrator  
SUBJECT: RCWD Letter



**Birchwood Village**

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Dear Mayor and Council Members,

This past month you received information from Mr. Waller, the Washington County Manager for the RCWD, about proposed changes to RCWD's bylaws.

As the Council Member over Stormwater and Rain Gardens, Council Member Megan Malvey has drafted the below response to Mr. Waller on this issue:

Dear Mr. Waller,

Thank you for the information you provided about potential improvements to the RCWD by-laws. We appreciate your goal to ensure that management of the RCWD is equitable and appropriate for all counties that are served. You suggested several changes to the bylaws and we support your proposed changes. To point out a few, we support:

- Ensuring that tax money is spent in the district from which it was collected
- Promoting a geographically diverse board of managers by limiting the number of managers appointed from any given city
- Requiring separation of accounting and auditing

### **Request/Recommendation**

Please discuss the proposed response and provide any feedback to Council Member Malvey before the letter is mailed off to the RCWD. Thanks!

Regards,  
Tobin Lay

# MEMORANDUM

DATE: October 10, 2017

TO: Birchwood City Council & Residents  
FROM: Tobin Lay, City Administrator  
SUBJECT: Fall Leaf Pick Up



Birchwood Village

-- ANNOUNCING --

The City will hold its fall leaf pick up at the end of October or beginning of November – *dates TBD*. The pricing will remain the same as the last spring & fall pickups - \$40/small piles, \$75/large piles, and mega piles will be charged on a case-by-case basis. There will also be a \$2 service charge for adding the fee to your utility bill. Signs will be posted at the entrances to town prior to the event as a reminder. *Please follow the City emails, website, facebook and/or Twitter for updates. Thanks!*

**Birchwood Village  
Leaf Pickup**

**When:** TBD  
Oct/Nov (Stay Tuned)

**Cost:** \$40 / small pile  
\$75 / large pile  
*Plus \$2 service charge.*

*\*fee will be added to your utility bill.*

Send email address to [info@cityofbirchwood.com](mailto:info@cityofbirchwood.com) to make sure you don't miss any important Birchwood events (like the leaf pickup)

Regards,  
Tobin Lay

# MEMORANDUM

DATE: October 10, 2017

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TO: Birchwood City Council  
FROM: Tobin Lay, City Administrator  
SUBJECT: Sheriff Report



**Birchwood Village**

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Dear Mayor and Council Members,

Here is the Sheriff Report for the period September 1-30, 2017:

Date	Time	ICR #	ID#	Street Name	Complaint
9/01/17	11:29:51	117031475	0197	WILDWOOD AV	MEDICAL **LEVEL 2**
9/01/17	11:55:08	117031477	0081	WILDWOOD AV	SCAM REPORT
9/06/17	14:25:56	117032119	0122	EAST CO LINE RD	NOISE COMPLAINT
9/09/17	1:03:40	117032433	0999	WILDWOOD AV	MEDICAL LEVEL 3
9/11/17	8:09:02	117032645	0063	HALL AV	DRIVING COMPLAINT
9/11/17	11:02:12	117032672	0122	BIRCHWOOD AV	VANDALISM REPORT
9/11/17	18:53:01	117032751	0079	WILDWOOD AV	MEDICAL LEVEL 3
9/12/17	14:05:13	117032834	0124	WILDWOOD AV	MEDICAL LEVEL 1
9/14/17	15:19:27	117033121	0064	CEDAR ST	DEAD ANIMAL
9/15/17	15:32:04	117033296	0064	BIRCHWOOD AV	VEHICLE BREAK IN REPORT
9/21/17	1:22:51	117034035	1264	WILDWOOD AV	CRIME PREVENTION
9/21/17	13:05:55	117034093	0122	EAST CO LINE RD	TRAFFIC - FAIL TO CHANGE ADDRE
9/21/17	17:49:46	117034145	0076	OAKHILL CT	OVEN FIRE
9/21/17	20:22:00	117034160	0093	BIRCHWOOD AV	NOISE COMPLAINT
9/22/17	15:22:59	117034281	0076	OAKRIDGE DR	ABANDONED VEHICLE
9/26/17	13:07:04	117034766	0088	OAKRIDGE DR	MEDICAL - LEVEL 1
9/27/17	8:08:44	117034850	0085	WILDWOOD AV	UNSECURE DOOR
9/28/17	9:26:08	117034992	0122	HALL AV	NEIGHBOR COMPLAINT
9/29/17	11:00:07	117035164	0122	HALL AV	TRAFFIC-STOP SIGN VIOLATION
9/29/17	11:13:32	117035166	0122	HALL AV	TRAFFIC-STOP SIGN VIOLATION
9/29/17	16:20:36	117035214	0197	OAKRIDGE DR	MEDICAL - LEVEL 1

Total ICRs Processed: 21

Thanks!

Regards,  
Tobin Lay

# MEMORANDUM

**DATE:** October 10, 2017

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**TO:** Birchwood City Council  
**FROM:** Tobin Lay, City Administrator  
**SUBJECT:** Wildwood Park Improvements



**Birchwood Village**

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Dear Mayor and Council Members,

As you know, the City was awarded a \$488 grant from the Mahtomedi Garden Club in April this year to plant shrubs at Wildwood Park around the emergency lift station generator.

The job of creating a plan for this improvement was given to the Parks and Natural Resources Committee who employed the services of Abrahamson Nursery in Scandia. Abrahamson planted Cardinal Dogwood, Standard Burning Bush and Arrowwood Viburnum in an oval around the generator and the job has been completed.

The total cost for Abrahamson's work was \$500 and Mahtomedi Garden Club has offered to pay the full amount - \$12 more than the award. Thanks!

Regards,  
Tobin Lay

**CITY OF BIRCHWOOD VILLAGE  
REGULAR CITY COUNCIL MEETING  
September 12, 2017**

**MINUTES**

**MEMBERS PRESENT:** Council members: Kevin Woolstencroft, Trilby White, Randy LaFoy and Megan Malvey. Mayor Mary Wingfield was absent.

**STAFF PRESENT:** Alan Kantrud, City Attorney; Tobin Lay, City Administrator

**OTHERS PRESENT:** Kyra Ludwigson, Ben Ludwigson, David Huso, Mary Sue Simmons, Doug Danks, Bryan McGinnis, Nick Hartzel

**Acting Mayor LaFoy** called the regular meeting to order at 7:00 p.m. The Pledge of Allegiance was recited.

**AGENDA APPROVAL:**

**MOTION WAS MADE BY COUNCILMEMBER WHITE AND SECONDED BY COUNCILMEMBER WOOLSTENCROFT TO APPROVE THE AMENDED AGENDA. ALL AYES. MOTION PASSED.**

**OPEN PUBLIC FORUM:**

- A. Ben Ludwigson (469 Lake Ave):** He proposed a skatepark at Tighe-Schmitz Park and included a presentation that covered “What, When, Where, Why and How” answers to summarize his proposal. Councilmembers suggested that Ben bring his ideas to the Parks Committee.
- B. Mary Sue Simmons (418 Birchwood Ct.):** She expressed concerns about the interior of City Hall, including the old appliances and lack of air conditioning. She stated that she strongly supported Councilmember White’s project of adding air conditioning to City Hall. She also suggested a couple of updates that are required for both safety and for a welcoming atmosphere. She recommended that the city hall tables be replaced and informed the council that a group of residents were willing to donate the funds for the tables. She asked Councilmember Woolstencroft to see if he could find cheaper tables through his work.
- C. Nick Hartzel (219 Birchwood):** He thanked the council for their hard work and then raised a few concerns. As a neighbor to City Hall, he did not support a dog park. He also expressed his concern about the storm water run-off problem near City Hall.

**ANNOUNCEMENTS:**

- A.** The Fall Plant Exchange will be Sat. September 23, 10am at City Hall.
- B.** Volunteers wanted for the Ice Rink this winter; managers and attendants. Contact City Hall for details.
- C.** We are social! Follow us on Facebook/ Twitter or register for the email listserv.
- D.** Century College will be celebrating its 50 year anniversary.

**ADMINISTRATIVE PRESENTATION:**

**A. Sheriff Report**

**CITY BUSINESS – CONSENT AGENDA**

- A. Approval of Amended Town Hall Meeting Minutes from July 11, 2017**
- B. Approval of Regular Meeting Minutes from August 8, 2017**
- C. Approval of Treasurer’s Report**
- D. Snow Removal Contract – Roads Committee Assistance**
- E. White Bear Lake Conservation District Appointment – Paul Steinhauser Resigned**
- F. White Bear Lake Fire Protection Services Contract – Renew**
- G. Washington County Sheriff Contract – Approve Rate increase**
- H. Approval of Amended Special Meeting Minutes from July 10, 2017**

**MOTION WAS MADE BY COUNCILMEMBER MALVEY AND SECONDED BY COUNCILMEMBER WOOLSTENCROFT TO APPROVE THE AMENDED CONSENT AGENDA. ALL AYES. MOTION PASSED.**

**CITY BUSINESS - REGULAR AGENDA**

**A. Roads Committee Update and Recommendations**

- 1. Schifskys Quote – Lake Ave and Warming House Parking Lot**
  - a.** Administrator Lay summarized the quote provided by Schifskys for gravel along Lake Ave. He announced the approval from both the Roads Committee and the Parks Committee of the quote and explained that the material will not be regrind and only one material.
  - b.** Administrator Lay also introduced a recommendation from the Roads Committee to repaint the streets and crosswalks. They were given a bid from SOS for \$4,125. The council requested a line item breakdown of the quote and tabled the topic to next month’s agenda.

**MOTION WAS MADE BY COUNCILMEMBER WOOLSTENCROFT AND SECONDED BY COUNCILMEMBER WHITE TO APPROVE OF THE QUOTE FROM SCHIFSKYS FOR \$9,650. ALL AYES. MOTION PASSED.**

**B. Planning Commission Recommendations**

- 1. Small Cell Wireless Moratorium – Resolution 2017-21**
  - a.** Doug Danks, Planning Commission Chair: He explained the Commission’s recommendation to spend more time on the Right of Way Ordinance and in the meantime to pass a temporary moratorium on Small Cell Wireless. The Planning Commission recommended clarifying the competing languages between the ordinance samples given them before taking action.
  - b.** City Attorney Kantrud: He explained that the Small Cell Wireless language could be passed later under a telecommunications ordinance and a temporary moratorium would suffice until a draft ordinance was recommended by the Planning Commission.

**MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER WHITE TO APPROVE OF THE MORATORIUM, RESOLUTION 2017-21. ALL AYES. MOTION PASSED.**

**2. Impervious Surface Amendment**

- a. Doug Danks explained the work that the Planning Commission has completed on the amendment, and answered questions from the Council. He disagreed with the DNR's recommendations and defended the Planning Commission's recommendation. The ordinance draft within the meeting packet is the ordinance as recommended by the Planning Commission.

MOTION WAS MADE BY COUNCILMEMBER WOOLSTENCROFT AND SECONDED BY COUNCILMEMBER WHITE TO HAVE A FIRST READING OF THE IMPERVIOUS SURFACE AMENDMENT AND THE PUBLIC HEARING DURING THE OCTOBER COUNCIL MEETING. ALL AYES. MOTION PASSED.

**C. 2018 Preliminary Budget**

1. Administrator Lay explained small changes that have been made to the preliminary budget since the Budget Workshop, including: an increase in fire service by \$1,139 and an increase in miscellaneous expenditures by \$62. He explained that according to the Budget Committee's recommendation, the levy budget is supposed to reflect the ongoing expenses of the city. The amended Preliminary Budget is \$354,500.

MOTION WAS MADE BY COUNCILMEMBER WHITE AND SECONDED BY COUNCILMEMBER MALVEY TO APPROVE THE 2018 PRELIMINARY BUDGET FOR A FINAL BUDGET TOTAL OF \$354,500. ALL AYES. MOTION PASSED.

**D. City Hall Air Conditioning**

1. Councilmember White provided a report of the research conducted for obtaining an air conditioning unit for the main space of City Hall. She also introduced the bids that she has collected, including bids for only the AV room and also bids for both spaces.
2. Council members discussed various funding for air conditioning including the equipment fund from the SCC or the reimbursement cable franchise funding that has not yet been allocated to other things, or the city of Birchwood fund.

MOTION WAS MADE BY COUNCILMEMBER WOOLSTENCROFT AND SECONDED BY COUNCILMEMBER MALVEY TO APPROVE OF INSTALLING AN AIR CONDITIONING UNIT IF THE COST CAN BE COVERED BY THE EQUIPMENT FUND PROVIDED BY SCC. IF THE COST WILL NOT BE COVERED, FURTHER DISCUSSION WILL TAKE PLACE DURING THE OCTOBER MEETING. ALL AYES. MOTION PASSED.

**E. Council Member Reports**

**1. Councilmember LaFoy:**

- a. Website Task Force Update: Councilmember LaFoy thanked the Website Task Force for the work that they have completed, but he asked if they could continue their work using the website analytics of what people are actually looking at on the website. He also suggested that the City purchase "birchwood.gov" and then create a new website rather than using the current provider.

MOTION WAS MADE BY COUNCILMEMBER WHITE AND SECONDED BY

COUNCILMEMBER WOOLSTENCROFT TO PURCHASE "BIRCHWOOD.GOV" FOR A SUBSCRIPTION OF \$12 PER YEAR AND TO APPROVE THE WEBSITE TASK FORCE TO CONTINUE WORKING. ALL AYES. MOTION PASSED.

**F. City Administrator's Report**

**1. Comp Plan Update – Vision Statement**

a. Administrator Lay introduced a draft of a Vision Statement created by Bridget Sperl for use in the Comp Plan. Councilmembers discussed several changes and ultimately decided to email their feedback to Administrator Lay, who will consolidate the feedback for the Planning Commission.

**2. Donation Request – Washington County Historical Society**

a. Councilmembers did not approve a request to donate funds to the Washington County Historical Society.

**3. Training Workshop for Treasurer/ Deputy Clerk Bailey Request**

a. Administrator Lay requested a budget of \$95 for a Data Practices Training Workshop for Treasurer/ Deputy Clerk Bailey Beckman.

MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER MALVEY TO APPROVE OF THE BUDGET FOR THE TRAINING WORKSHOP FOR BAILEY BECKMAN. ALL AYES. MOTION PASSED.

**G. City Attorney Report**

1. Nothing new to report, but he will be meeting with the Planning Commission on September 28, 2017.

**ADJOURN**

**MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER WHITE TO ADJOURN THE MEETING. ALL AYES. MOTION PASSED. MEETING ADJOURNED AT 8:46 P.M.**

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Mary Wingfield  
Mayor

ATTEST:

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Tobin Lay  
City Administrator-Clerk

For the Period : 9/12/2017 To 10/5/2017

<u>Name of Fund</u>	<u>Beginning Balance</u>	<u>Total Receipts</u>	<u>Total Disbursed</u>	<u>Ending Balance</u>
General Fund	\$476,669.45	\$1,444.16	\$9,611.11	\$468,502.50
Road and Bridge	\$0.00	\$0.00	\$0.00	\$0.00
Comp Plan Grant	\$5,000.00	\$0.00	\$0.00	\$5,000.00
Tree Canopy Care	\$0.00	\$0.00	\$0.00	\$0.00
Special Rev Projects	\$2,864.59	\$600.00	\$200.00	\$3,264.59
Spec Rev - Warm House	\$40.00	\$0.00	\$0.00	\$40.00
Reimbursed Contracted Services	(\$8,961.77)	\$0.00	\$0.00	(\$8,961.77)
Birchwood In Re-hab Bond	\$1,687.21	\$0.00	\$0.00	\$1,687.21
Sewer Re-hab 2008 Debt	\$5,890.02	\$0.00	\$0.00	\$5,890.02
CAPITAL PROJECT FUNDS (401 through 499)	\$0.00	\$0.00	\$0.00	\$0.00
Capital Improvement Projects	\$0.00	\$0.00	\$0.00	\$0.00
Capital Project PW	\$66,233.91	\$0.00	\$0.00	\$66,233.91
Water	\$28,433.95	\$11,140.29	\$912.98	\$38,661.26
Sewer	\$40,990.69	\$10,703.27	\$672.33	\$51,021.63
Transit System	\$0.00	\$0.00	\$0.00	\$0.00
Sewer Infrastructure	\$0.00	\$0.00	\$0.00	\$0.00
Engineering Services	(\$4,972.50)	\$0.00	\$0.00	(\$4,972.50)
<b>Total</b>	<b>\$613,875.55</b>	<b>\$23,887.72</b>	<b>\$11,396.42</b>	<b>\$626,366.85</b>

City of Birchwood Village

Receipts Register

10/5/2017

Fund Name: All Funds

Date Range: 09/12/2017 To 10/05/2017

Date	Remitter	Receipt #	Description	Deposit ID	Void Account Name	F-A-P	Total
09/14/2017	Choulock, Joseph II	2058*	Building Permit	(09/14/2017) -	N Building Permits	100-32211-	\$ 162.26
							<u>\$ 162.26</u>
09/14/2017	Egan, Kristen	2059*	Building Permit	(09/14/2017) -	N Building Permits	100-32211-	\$ 258.75
							<u>\$ 258.75</u>
09/14/2017	Authentic Construction	2060	Building Permit	(09/14/2017) -	N Building Permits	100-32211-	\$ 519.40
							<u>\$ 519.40</u>
09/14/2017	Rascher Plumbing & Heating	2061*	Building Permit	(09/14/2017) -	N Building Permits	100-32211-	\$ 46.20
							<u>\$ 46.20</u>
09/15/2017	Residents - via St Anthony Village	171734126	U/B 9/15/2017	(09/15/2017) -	N Leaf Collection	100-34408-	\$ 2.08
							<u>\$ 2.08</u>
							\$ 0.15
							\$ 1,679.71
							\$ 13.53
							\$ 41.79
							\$ 254.49
							\$ 24.48
							<u>\$ 2,120.17</u>
							<u>\$ 4,136.40</u>
09/15/2017	Residents - via St Anthony Village	171734127	U/B 9/15/2017	(09/15/2017) -	N Leaf Collection	100-34408-	\$ 0.01
							<u>\$ 0.01</u>
							\$ 3,297.62
							\$ 30.29
							\$ 49.09
							\$ 289.52
							\$ 31.57
							<u>\$ 2,641.44</u>
							<u>\$ 6,339.54</u>
09/22/2017	Residents - via St Anthony Village	171734124	U/B 9/22/2017	(09/22/2017) -	N Water Fee	601-34110-	\$ 1,150.47

N1

Fund Name: All Funds

Date Range: 09/12/2017 To 10/05/2017

<u>Date</u>	<u>Remitter</u>	<u>Receipt #</u>	<u>Description</u>	<u>Deposit ID</u>	<u>Void Account Name</u>	<u>F-A-P</u>	<u>Total</u>
09/22/2017	Residents - via St Anthony Village	171734125	U/B 9/22/2017	(09/22/2017) -	N Miscellaneous	100-36140-	\$ 150.00
					Water Fee	601-34110-	\$ 1,980.98
					Penalty - Late Water/Sewer	601-34160-	\$ 1.68
					State and Misc fees	601-34170-	\$ 50.10
					Water Main Break	601-34905-	\$ 294.94
					Penalty - Late Water/Sewer	605-34160-	\$ 5.30
					Sewer Fee	605-34190-	\$ 2,771.59
							<b>\$ 5,254.59</b>
09/29/2017	Residents - via St Anthony Village	171734122	U/B 9/29/2017	(09/29/2017) -	N Water Fee	601-34110-	\$ 375.55
					State and Misc fees	601-34170-	\$ 15.90
					Water Main Break	601-34905-	\$ 93.60
					Sewer Fee	605-34190-	\$ 567.36
							<b>\$ 1,052.41</b>
09/29/2017	Residents - via St Anthony Village	171734123	U/B 9/29/2017	(09/29/2017) -	N Leaf Collection	100-34408-	\$ 0.01
					Water Fee	601-34110-	\$ 1,135.17
					Penalty - Late Water/Sewer	601-34160-	\$ 1.84
					State and Misc fees	601-34170-	\$ 31.86
					Water Main Break	601-34905-	\$ 179.32
					Penalty - Late Water/Sewer	605-34160-	\$ 4.80
					Sewer Fee	605-34190-	\$ 1,231.49
							<b>\$ 2,584.49</b>
10/02/2017	Nephew, Nicholas/Sara	171734118*	Boat Slip Wait List Fee	(10/02/2017) -	N Dock/Lift Permit Fee	210-32260-	\$ 200.00
							<b>\$ 200.00</b>
10/02/2017	Minnesota Rusco, Inc.	171734119*	Building Permit	(10/02/2017) -	N Building Permits	100-32211-	\$ 70.26
							<b>\$ 70.26</b>
10/02/2017	Walker Roofing	171734120	Building Permit	(10/02/2017) -	N Building Permits	100-32211-	\$ 215.04
							<b>\$ 215.04</b>

2

Fund Name: All Funds

Date Range: 09/12/2017 To 10/05/2017

<u>Date</u>	<u>Remitter</u>	<u>Receipt #</u>	<u>Description</u>	<u>Deposit ID</u>	<u>Void Account Name</u>	<u>F-A-P</u>	<u>Total</u>
10/02/2017	Klimp, Dana/Lori	171734121*	Overpayment Error Adjustment	(10/02/2017) -	N Dock/Lift Permit Fee	210-32260-	\$ 200.00
							\$ 200.00
10/05/2017	Schuler, Rachel	171734129*	Boat Slip Waitlist Fee	(10/05/2017) -	N Dock/Lift Permit Fee	210-32260-	\$ 200.00
							\$ 200.00
10/05/2017	Messerli & Kramer P.A.	171734130*	Misc. Legal Compensation	(10/05/2017) -	N MISCELLANEOUS REVENUES	100-36200-	\$ 15.00
							\$ 15.00
10/05/2017	Ciapetta, Nick/Kelly	171734132	Pet License	(10/05/2017) -	N Animal Licenses	100-32240-	\$ 5.00
							\$ 5.00
<b>Total for Selected Receipts</b>							<b>\$ 23,887.72</b>

City of Birchwood Village

Disbursements Register

10/5/2017

Fund Name: All Funds

Date Range: 09/12/2017 To 10/05/2017

<u>Date</u>	<u>Vendor</u>	<u>Check #</u>	<u>Description</u>	<u>Void</u>	<u>Account Name</u>	<u>F-A-O-P</u>	<u>Total</u>
09/14/2017	Payroll Period Ending 09/14/2017	29767		N	Clerk - Treasurer	100-41401-100-	\$ 1,575.80
	<b>Total For Check</b>	<b>29767</b>					<b>\$ 1,575.80</b>
09/14/2017	Felt, Randy/Jackie	29768	Refund of Dock Overpayment	N	MISCELLANEOUS	210-49001-810-	\$ 200.00
	<b>Total For Check</b>	<b>29768</b>					<b>\$ 200.00</b>
09/14/2017	Deluxe	EFT070717*	Checks	N	Office Operations Supplies	100-41911-200-	\$ 258.54
	<b>Total For Check</b>	<b>EFT070717</b>					<b>\$ 258.54</b>
09/14/2017	PERA	EFT091417	Employee Retirement - Tobin	N	Clerk - Treasurer	100-41401-121-	\$ 274.40
	<b>Total For Check</b>	<b>EFT091417</b>					<b>\$ 274.40</b>
10/02/2017	City of White Bear Lake	29769	Fire Srvc - September 2017	N	Fire	100-42201-314-	\$ 1,599.84
	<b>Total For Check</b>	<b>29769</b>					<b>\$ 1,599.84</b>
10/02/2017	TSE, INC	29770*	City Hall Janitorial Services X2 9/7/17	N	General Government Buildings and Plant	100-41940-314-	\$ 25.00
	<b>Total For Check</b>	<b>29770</b>					<b>\$ 25.00</b>
10/02/2017	LMCIT	29771*	Remaining Worker's Comp Premium 6/16-6/17	N	City Insurance	100-41945-150-	\$ 776.00
	<b>Total For Check</b>	<b>29771</b>					<b>\$ 776.00</b>
10/02/2017	Metropolitan Area Management Associ	29772*	MAMA Membership- Monthly Meeting	N	City Training and Development	100-41914-433-	\$ 20.00
	<b>Total For Check</b>	<b>29772</b>					<b>\$ 20.00</b>
10/02/2017	Leeves, Robert	29773	Council Meeting Recording 9/12/17	N	Cable Eqpmnt and Service	100-41950-314-	\$ 65.00
	<b>Total For Check</b>	<b>29773</b>					<b>\$ 65.00</b>
10/02/2017	Toshiba Business Solutions, USA Inc	29774	Maintenance	N	Office Operations Supplies	100-41911-314-	\$ 47.02
	<b>Total For Check</b>	<b>29774</b>					<b>\$ 47.02</b>
10/02/2017	Core & Main	29775*	Misc. Tools/Parts per Manship	N	Water Utility	601-43180-220-	\$ 912.98
	<b>Total For Check</b>	<b>29775</b>					<b>\$ 912.98</b>

Fund Name: All Funds

Date Range: 09/12/2017 To 10/05/2017

<u>Date</u>	<u>Vendor</u>	<u>Check #</u>	<u>Description</u>	<u>Void</u>	<u>Account Name</u>	<u>F-A-O-P</u>	<u>Total</u>
10/02/2017	Lay, Tobin	29776	Reimbursement - Soap, Febreze, Office Chair, Weather Proofing	N	Office Operations Supplies	100-41911-230-	\$ 131.46
		<b>29776</b>				100-41911-230-	\$ 27.60
		<b>29776</b>					\$ <b>159.06</b>
10/02/2017	AirFresh Industries, Inc.	29777*	Rental Monthly Units x2 (10/1/17 - 10/31/17)	N	Parks	100-45207-314-	\$ 162.50
		<b>29777</b>					\$ <b>162.50</b>
10/02/2017	City of Roseville	29778*	September 2017 IT/Phone Services	N	General Government Buildings and Plant	100-41940-320-	\$ 329.67
		<b>29778*</b>				100-41940-320-	\$ 50.63
		<b>29778</b>					\$ <b>380.30</b>
10/02/2017	Allstream	29779*	Analog Phone Line	N	General Government Buildings and Plant	100-41940-320-	\$ 37.49
		<b>29779</b>					\$ <b>37.49</b>
10/02/2017	Press Publications	29780*	Legal Notice Publications x 2	N	Ordinances and Proceedings	100-41130-351-	\$ 47.04
		<b>29780*</b>					\$ <b>47.04</b>
10/02/2017	Payroll Period Ending 10/02/2017	29781		N	Clerk - Treasurer	100-41401-100-	\$ 1,575.80
		<b>29781</b>					\$ <b>1,575.80</b>
10/02/2017	Payroll Period Ending 10/02/2017	29782		N	Clerk - Treasurer	100-41401-100-	\$ 454.12
		<b>29782</b>					\$ <b>454.12</b>
10/02/2017	Xcel Energy	EFT100217A*	Electric for Lift Stations/Warming Station	N	General Government Buildings and Plant	100-41940-380-	\$ 162.73
		EFT100217A*			Parks	100-45207-380-	\$ 12.61
		EFT100217A*			Sewer Utility	605-43190-380-	\$ 187.91
		EFT100217A*				605-43190-380-	\$ 36.76
		EFT100217A*				605-43190-380-	\$ 385.57
		<b>EFT100217A</b>					\$ <b>785.58</b>
10/02/2017	Xcel Energy	EFT100217B*	Gas for Generator	N	Sewer Utility	605-43190-383-	\$ 28.34
		<b>EFT100217B</b>					\$ <b>28.34</b>
10/02/2017	Amazon	EFT100217C*	Furnace Air Filter	N	Office Operations Supplies	100-41911-230-	\$ 39.96
		<b>EFT100217C</b>					\$ <b>39.96</b>

Fund Name: All Funds

Date Range: 09/12/2017 To 10/05/2017

<u>Date</u>	<u>Vendor</u>	<u>Check #</u>	<u>Description</u>	<u>Void</u>	<u>Account Name</u>	<u>F-A-O-P</u>	<u>Total</u>
10/02/2017	PERA	EFT100217D	Employee Retirement - Tobin & Bailey	N	Clerk - Treasurer	100-41401-121-	\$ 274.40
		EFT100217D				100-41401-121-	\$ 83.16
		<b>EFT100217D</b>					<b>\$ 357.56</b>
10/02/2017	MN Department of Revenue	EFT100217E	Quarter 3 Filing 2017	N	Clerk - Treasurer	100-41401-115-	\$ 648.81
		<b>EFT100217E</b>					<b>\$ 648.81</b>
10/02/2017	IRS - US Treasury	EFTIRS1017	Q3 2017 Payment - September	N	Clerk - Treasurer	100-41401-100-	\$ 931.51
		<b>EFTIRS1017</b>					<b>\$ 931.51</b>
10/05/2017	Gopher State One Call	29783*	Locates (25 Tickets)	N	Utility Locates	605-42805-314-	\$ 33.75
		<b>29783</b>					<b>\$ 33.75</b>
10/05/2017	IRS - US Treasury	EFT1017B*	Q3 2017 Additional Payment	N	Clerk - Treasurer	100-41401-100-	\$ 0.02
		<b>EFT1017B</b>					<b>\$ 0.02</b>
		<b>Total For Check</b>					<b>\$ 11,396.42</b>

As on 10/5/2017

Special Rev Projects 210

	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
<b>Receipts:</b>			
Dock/Lift Permit Fee	0.00	1,535.00	1,535.00
<b>Total Acct 322</b>	<b>0.00</b>	<b>1,535.00</b>	<b>1,535.00</b>
<b>Total Revenues</b>	<b>0.00</b>	<b>1,535.00</b>	<b>1,535.00</b>
<b>Other Financing Sources:</b>			
<b>Total Other Financing Sources</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>
<b>Disbursements:</b>			
Recreation			
Miscellaneous: Dues and Subscriptions	0.00	200.00	(200.00)
Community Events	0.00	1,200.00	(1,200.00)
<b>Total Acct 451</b>	<b>0.00</b>	<b>1,400.00</b>	<b>(1,400.00)</b>
MISCELLANEOUS			
Refunds and Reimbursements	0.00	765.43	(765.43)
<b>Total Acct 490</b>	<b>0.00</b>	<b>765.43</b>	<b>(765.43)</b>
Unallocated Expenditures			
Miscellaneous (431 through 499)	0.00	70.00	(70.00)
Community Events	0.00	300.00	(300.00)
Refunds and Reimbursements	0.00	200.00	(200.00)
<b>Total Acct 492</b>	<b>0.00</b>	<b>570.00</b>	<b>(570.00)</b>
<b>Total Disbursements</b>	<b>0.00</b>	<b>2,735.43</b>	<b>(2,735.43)</b>
<b>Other Financing Uses:</b>			
<b>Total Other Financing Uses</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>
<b>Beginning Cash Balance</b>		<b>4,465.02</b>	
<b>Total Receipts and Other Financing Sources</b>		<b>1,535.00</b>	
<b>Total Disbursements and Other Financing Uses</b>		<b>2,735.43</b>	
<b>Cash Balance as of 10/05/2017</b>		<b>3,264.59</b>	

As on 10/5/2017

Capital Improvement Projects **406**

	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
<b>Receipts:</b>			
Total Revenues	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
<b>Other Financing Sources:</b>			
Total Other Financing Sources	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
<b>Disbursements:</b>			
Unallocated Expenditures			
Professional Services: Medical and Dental Fees	0.00	10,555.00	(10,555.00)
Total Acct 492	<u>0.00</u>	<u>10,555.00</u>	<u>(10,555.00)</u>
Total Disbursements	<u>0.00</u>	<u>10,555.00</u>	<u>(10,555.00)</u>
<b>Other Financing Uses:</b>			
Transfer To Governmental Fund			
Interfund Transfers	0.00	68,203.91	(68,203.91)
Total Acct 493	<u>0.00</u>	<u>68,203.91</u>	<u>(68,203.91)</u>
Total Other Financing Uses	<u>0.00</u>	<u>68,203.91</u>	<u>(68,203.91)</u>
Beginning Cash Balance		78,758.91	
Total Receipts and Other Financing Sources		0.00	
Total Disbursements and Other Financing Uses		<u>78,758.91</u>	
Cash Balance as of 10/05/2017		0.00	

As on 10/5/2017

Water 601

	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
<b>Receipts:</b>			
Water Fee	0.00	53,288.21	53,288.21
Penalty - Late Water/Sewer	0.00	301.98	301.98
State and Misc fees	0.00	1,580.26	1,580.26
<b>Total Acct 341</b>	<b>0.00</b>	<b>55,170.45</b>	<b>55,170.45</b>
Water Main Break	0.00	4,310.81	4,310.81
<b>Total Acct 349</b>	<b>0.00</b>	<b>4,310.81</b>	<b>4,310.81</b>
<b>Total Revenues</b>	<b>0.00</b>	<b>59,481.26</b>	<b>59,481.26</b>
<b>Other Financing Sources:</b>			
<b>Total Other Financing Sources</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>
<b>Disbursements:</b>			
Financial Administration			
Operating Supplies (211 through 219)	0.00	481.69	(481.69)
Professional Services: Medical and Dental Fees	0.00	3,655.60	(3,655.60)
Contracted Services	0.00	1,881.00	(1,881.00)
<b>Total Acct 415</b>	<b>0.00</b>	<b>6,018.29</b>	<b>(6,018.29)</b>
General Government Buildings and Plant			
Refunds and Reimbursements	0.00	124.85	(124.85)
<b>Total Acct 419</b>	<b>0.00</b>	<b>124.85</b>	<b>(124.85)</b>
Water Utility			
Repair and Maintenance Supplies (221 through 229)	0.00	1,060.60	(1,060.60)
Professional Services: Medical and Dental Fees	0.00	23,542.99	(23,542.99)
Contracted Services	0.00	11,093.82	(11,093.82)
Miscellaneous (431 through 499)	0.00	1,124.00	(1,124.00)
Fees	0.00	562.00	(562.00)
Wtr/Swr Emergency			
Repair and Maintenance Supplies (221 through 229)	0.00	600.00	(600.00)
Professional Services: Medical and Dental Fees	0.00	14,083.82	(14,083.82)
Sewer Utility			
Refunds and Reimbursements	0.00	11.92	(11.92)
<b>Total Acct 431</b>	<b>0.00</b>	<b>52,079.15</b>	<b>(52,079.15)</b>
<b>Total Disbursements</b>	<b>0.00</b>	<b>58,222.29</b>	<b>(58,222.29)</b>
<b>Other Financing Uses:</b>			
<b>Total Other Financing Uses</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>
<b>Beginning Cash Balance</b>		<b>37,402.29</b>	
<b>Total Receipts and Other Financing Sources</b>		<b>59,481.26</b>	
<b>Total Disbursements and Other Financing Uses</b>		<b>58,222.29</b>	
<b>Cash Balance as of 10/05/2017</b>		<b>38,661.26</b>	

As on 10/5/2017

Sewer 605

	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
<b>Receipts:</b>			
Penalty - Late Water/Sewer	0.00	624.28	624.28
Sewer Fee	0.00	82,258.04	82,258.04
<b>Total Acct 341</b>	<b>0.00</b>	<b>82,882.32</b>	<b>82,882.32</b>
<b>Total Revenues</b>	<b>0.00</b>	<b>82,882.32</b>	<b>82,882.32</b>
<b>Other Financing Sources:</b>			
<b>Total Other Financing Sources</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>
<b>Disbursements:</b>			
Postage/Postal Permits			
OFFICE SUPPLIES (201 through 209)	0.00	668.63	(668.63)
<b>Total Acct 414</b>	<b>0.00</b>	<b>668.63</b>	<b>(668.63)</b>
Engineer Service			
Professional Services: Legal Fees	0.00	850.00	(850.00)
<b>Total Acct 416</b>	<b>0.00</b>	<b>850.00</b>	<b>(850.00)</b>
General Government Buildings and Plant			
Refunds and Reimbursements	0.00	759.20	(759.20)
<b>Total Acct 419</b>	<b>0.00</b>	<b>759.20</b>	<b>(759.20)</b>
Utility Locates			
Contracted Services	0.00	375.40	(375.40)
<b>Total Acct 428</b>	<b>0.00</b>	<b>375.40</b>	<b>(375.40)</b>
Sewer Utility			
Operating Supplies (211 through 219)	0.00	26.71	(26.71)
Sewer - Wastewater Charge	0.00	38,481.93	(38,481.93)
Professional Services: Medical and Dental Fees	0.00	1,304.88	(1,304.88)
Contracted Services	0.00	2,277.65	(2,277.65)
Utility Services (381 through 389)	0.00	9,120.12	(9,120.12)
Utility Services: Gas Utilities	0.00	228.01	(228.01)
Refunds and Reimbursements	0.00	50.18	(50.18)
<b>Total Acct 431</b>	<b>0.00</b>	<b>51,489.48</b>	<b>(51,489.48)</b>
<b>Total Disbursements</b>	<b>0.00</b>	<b>54,142.71</b>	<b>(54,142.71)</b>
<b>Other Financing Uses:</b>			
Transfer To Governmental Fund			
Interfund Transfers	0.00	25,194.03	(25,194.03)
<b>Total Acct 493</b>	<b>0.00</b>	<b>25,194.03</b>	<b>(25,194.03)</b>
<b>Total Other Financing Uses</b>	<b>0.00</b>	<b>25,194.03</b>	<b>(25,194.03)</b>
<b>Beginning Cash Balance</b>		<b>47,476.05</b>	
<b>Total Receipts and Other Financing Sources</b>		<b>82,882.32</b>	
<b>Total Disbursements and Other Financing Uses</b>		<b>79,336.74</b>	
<b>Cash Balance as of 10/05/2017</b>		<b>51,021.63</b>	

# MEMORANDUM

DATE: October 10, 2017

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TO: Birchwood City Council  
FROM: Tobin Lay, City Administrator  
SUBJECT: Extension of Interim City Administrator



**Birchwood Village**

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Dear Mayor and Council Members,

During the August 8 regular City Council meeting, the Council requested the Personnel Committee review the proposed City Administrator contract and return a recommendation for Council's consideration. The Council also extended the Interim City Administrator position two (2) months, until October 10, 2017.

The Personnel Committee met on August 21, reviewed the proposed contract and agreed on a recommendation for terms of the contract. Committee Members did not, however, agree upon a recommendation for what fund the City Administrator should be paid from for the remainder of 2017; the salary increase was not budgeted for in the 2017 budget.

After much thought and consideration, I have decided to postpone my contract for City Administrator until the January 9, 2018 regular City Council meeting. This will save the City money and allow the new contract to coincide with the 2018 budget, which includes the salary increase.

Enclosed is a resolution to extend the Interim City Administrator position until the January 9, 2018 City Council meeting.

**Request/Recommendation**

Staff requests Council approve the enclosed resolution 2017-22 to extend the Interim City Administrator position until the January 9, 2018 City Council meeting. Thanks!

Regards,  
Tobin Lay

Enclosed: Resolution 2017-22

**RESOLUTION 2017-22**

**CITY OF BIRCHWOOD VILLAGE  
WASHINGTON COUNTY, MINNESOTA**

**APPROVING THE EXTENSION OF TOBIN LAY AS INTERIM CITY  
ADMINISTRATOR**

At a regular meeting of the City Council of the City of Birchwood Village held on Tuesday, October 10, 2017, at Birchwood City Hall, 207 Birchwood Avenue, Birchwood, Minnesota, with the following members present: Mayor Mary Wingfield, Councilmembers Trilby White, Megan Malvey, Randy LaFoy, and Kevin Woolstencroft, and the following absent: none, the Birchwood City Council resolved:

**WHEREAS,** the City Administrator contract is still under consideration; and

**WHEREAS,** Current Interim City Administrator Tobin Lay agrees to continue to serve as Interim City Administrator for the City of Birchwood Village at the same wage and benefits currently budgeted for through 2017 until terms of the City Administrator contract have been mutually agreed upon.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Birchwood Village hereby approves the extension of Tobin Lay as Interim City Administrator, effective October 10, 2017 and continue until terms of the City Administrator contract have been mutually agreed upon.

**BE IT FURTHER RESOLVED AND UNDERSTOOD** that:

1. This appointment is a temporary assignment. 2. The term of this appointment is not intended to exceed three months. 3. If terms of the City Administrator contract have not been mutually agreed upon by the City Council and the Interim City Administrator by January 9, 2018, the Interim City Administrator may remain in the Interim City Administrator position up to 90 days while a permanent City Administrator is sought, appointed, and trained.

Voting in Favor:

Voting Against:

Resolution duly seconded and passed this 10<sup>th</sup> day of October, 2017.

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Mary Wingfield, Mayor

Attest:

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Tobin Lay – City Administrator-Clerk

# MEMORANDUM

DATE: October 10, 2017

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TO: Birchwood City Council  
FROM: Tobin Lay, City Administrator  
SUBJECT: Order Public Improvement Hearing



**Birchwood Village**

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Dear Mayor and Council Members,

After much work and investigative research, staff is ready to proceed with the sewer lining project. The sewer lines throughout town have been televised and the City Engineer has determined an initial list of properties to be assessed for this project.

**Request/Recommendation**

Staff requests Council order a public hearing regarding these improvements for the November 14, 2017 regular City Council meeting.

This will be the first of two public hearings before the Council votes on the improvements/assessments. Thanks!

Regards,  
Tobin Lay

# MEMORANDUM

DATE: October 10, 2017

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TO: Birchwood City Council  
FROM: Tobin Lay, City Administrator  
SUBJECT: Road Stripping



**Birchwood Village**

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Dear Mayor and Council Members,

Last month Council reviewed a recommendation from the Roads Committee to accept a bid from SOS to paint the roads. Council discussed several painting options (crosswalks only, waiting, etc.) and requested a line item breakdown of the quote.

Please see the enclosed amended SOS quote and email that breakdown and explain the costs. The Roads Committee met again last week and voted to keep their recommendation that Council approve this quote and have the roads painted now.

If approved, SOS believes they can paint during the week of October 16<sup>th</sup> before the temperatures drop; temps must be above 40+ degrees and dry in order to paint.

Another thing to consider is that many leaves have already fallen so the roads will have to be swept before the lines are painted. With such a narrow window of time, it may be difficult to ensure the roads are swept in time.

Gene Ruehle from the Roads Committee is present at tonight's meeting to answer any questions.

### **Request/Recommendation**

Staff requests Council:

- 1) Review and consider the Roads Committee's recommendation;
- 2) Review the SOS bid and email; and
- 3) Advise how you'd like staff to proceed.

Thanks!

Regards,  
Tobin Lay



2566 Ariel St.  
North St. Paul, MN 55109

# Proposal

Date:	Proposal #
9/29/2017	1703

Name / Address
Birchwood Village 207 Birchwood Ave. Birchwood, MN 55110

Terms
Net 30 Days

Description	Rate	Qty	Total
Ceder St.- Hall Ave From East Co. line Rd. to East border line of Birchwood Layout and stripe Road to customers specifications- Double yellow centerline approximately one mile	1,865.00	1	1,865.00
Layout and stripe Road to customers specifications- Fog line/white edge line (Each Line) approximately one mile Each	830.00	2	1,660.00
Crosswalk Marking- per crosswalk and 9' fog-line on both sides of road	150.00	4	600.00
Notes: Paint will be one coat of MNDOT-spec traffic marking paint with reflective beads. This quote includes one mobilization for the long line truck. Additional, if requested are \$750.00 each Sales Tax	7.125%		0.00
<b>Total</b>			\$4,125.00

Approved by: \_\_\_\_\_ Date: \_\_\_\_\_

Phone:	Fax:	E-mail
651-748-4157	651-773-7803	Info@SauveSOS.com

## Tobin Lay

---

**From:** Brian Sauve [brian@sauvesos.com]  
**Sent:** Thursday, October 05, 2017 8:46 AM  
**To:** Tobin Lay  
**Subject:** RE: Birchwood Quote Additional Question

Tobin

Yes the long line truck is only for center lines and fog lines we will come with a smaller truck to do crosswalks. The additional mobilization would only be charged if we had to come out to do additional work. The time line to get this work done this season yet is : We don't have a lot of time left, if you schedule now we are looking at the week of the 16<sup>th</sup>, the long line truck will most likely be decommissioned due to weather around the end of October, we can stripe if we get Dry 40+ degrees days.

Thanks

Brian

Brian Sauve  
651-983-2259  
[Brian@SauveSOS.com](mailto:Brian@SauveSOS.com)



2556 Ariel Street  
North Saint Paul, MN 55109  
Office: 651-748-4157  
Fax: 651-773-7803  
[www.sauvesos.com](http://www.sauvesos.com)

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**From:** Tobin Lay [<mailto:Tobin.Lay@cityofbirchwood.com>]  
**Sent:** Tuesday, October 03, 2017 6:26 PM  
**To:** Information <[info@sauvesos.com](mailto:info@sauvesos.com)>  
**Cc:** Terry Granec <[tgranec@yahoo.com](mailto:tgranec@yahoo.com)>  
**Subject:** Birchwood Quote Additional Question  
**Importance:** High

Hello,

Thank you for providing the attached breakdown quote for stripping Birchwood's streets. I have one additional question about the breakdown. When is the long line truck used – only for the fog lines and center lines? I'm assuming it is not used for crosswalk markings, is that correct?

Also, what is the latest timeframe you are even able to paint due to temperatures? Thanks!

Tobin Lay  
City Administrator/Clerk  
City of Birchwood Village, MN

# MEMORANDUM

**DATE:** October 10, 2017

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**TO:** Birchwood City Council  
**FROM:** Tobin Lay, City Administrator  
**SUBJECT:** Impervious Surface Amendment



**Birchwood Village**

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Dear Mayor and Council Members,

During last month's regular City Council meeting, the Council reviewed the Planning Commission's recommended amendments to City Code 302.050 – Impervious Surfaces. Doug Danks was present at the meeting and answered Council's questions.

The Council ordered a public hearing for Ordinance 2017-01-01 to take place at tonight's meeting. Staff has published information about tonight's public hearing accordingly. Thanks!

Regards,  
Tobin Lay

Enclosed: Ordinance 2017-01-01

**ORDINANCE 2017-01-01**

**CITY OF BIRCHWOOD VILLAGE  
WASHINGTON COUNTY, MINNESOTA**

**AN ORDINANCE AMENDING IMPERVIOUS COVER STANDARD AND VARIANCE  
STANDARDS IN CITY CODE**

The City Council of the City of Birchwood Village hereby ordains that Chapter 302 (Zoning Code: Requirements and Performance Standards) of the Municipal Code of the City of Birchwood Village is hereby amended to read as follows:

**SECTION 302.050: IMPERVIOUS SURFACES**

- 302.050 1. Impervious surface coverage of lots shall not exceed twenty-five (25) percent of the lot area unless the applicant obtains a variance and the following conditions are satisfied:
- a. The applicant shall submit a stormwater management plan for the site that analyzes the proposed development including the area(s) of impervious surfaces, direction of runoff, proposed best management practices to manage runoff, and stormwater retention that the best management practices will achieve.
  - b. The stormwater management plan shall include structures and/or best management practices for the mitigation of stormwater impacts on receiving waters in compliance with the City's Surface Water Management Plan, or as approved by the City Engineer, so that the site design includes stormwater management practices that control the stormwater runoff volumes, and the post-construction runoff volume shall be retained on site for 1.1 inches of runoff from impervious surfaces. Examples of best management practices that may be included in the plan include, but are not limited to, the following: pervious pavements, rainwater gardens, and french drains.
  - c. The applicant shall utilize the most recent version of the Minnesota MIDS (Minimum Impact Design Standards) Calculator (available on the Minnesota Pollution Control Agency's website), the U.S. Environmental Protection Agency's National Stormwater Calculator, or another similar stormwater design calculator approved by the city to complete the plan and show that the proposed stormwater management practices meet the required infiltration standard. The applicant shall submit the calculator results to the City with the stormwater management plan.
  - d. The applicant shall provide documentation that the proposed stormwater management methods meet the required standard, will be designed and installed consistent with the City's Surface Water Management Plan, NPDES stormwater

standards, and the Minnesota Pollution Control Agency’s Minnesota Stormwater Manual.

- e. No permeable pavement system is permitted in the Shore Impact Zone. (The Shore Impact Zone is the land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50 percent of the required structure setback. The required structure setback from the OHWL in the City of Birchwood Village is 50 feet, and the Shore Impact Zone is 25 feet.)
- f. Site design shall comply with the City’s Tree Ordinance, and shall minimize changes in ground cover, loss of natural vegetation, and grade change as much as possible.
- g. The base of installed infiltration structures or practices must be a minimum of three (3) feet above the established ground water table or the Ordinary High Water Level of White Bear Lake, whichever is higher.
- h. The stormwater management practices shall be designed in accord with the Minnesota Stormwater Manual, American Concrete Pavement Association design criteria, Center for Watershed Protection, *Stormwater BMP Design Supplement for Cold Climates*, or other design guidance provided by the City.
- i. The stormwater management plan shall include the applicant’s description of how the practices shall be maintained to function as designed for the long-term. The City may inspect the installation of the stormwater management system at the site.
- j. The applicant shall include the maintenance plan and a maintenance schedule for the approved stormwater management practices with the building permit application.
- k. The applicant shall record the variance with the property records at Washington County.

EFFECTIVE DATE: This Ordinance shall be in full force and effect from and after its passage and approval and publication as required by law.

Adopted by the City of Birchwood Village City Council this \_\_\_ day of \_\_\_\_\_, 2017

\_\_\_\_\_  
Mary Wingfield  
Mayor

Attest:

\_\_\_\_\_  
Tobin Lay  
City Administrator-Clerk

# MEMORANDUM

DATE: October 10, 2017

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TO: Birchwood City Council  
FROM: Tobin Lay, City Administrator  
SUBJECT: Right-of-Way Ordinance



**Birchwood Village**

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Dear Mayor and Council Members,

During the August 8, 2017 regular City Council meeting, the Council reviewed two sample Right-of-Way Ordinances; one enacted by the City of Grant and the other drafted by Attorney Alan Kantrud for the City of Landfall, MN. The Council requested the Planning Commission work with City Attorney Kantrud to draft a recommended Right-of-Way Ordinance for Birchwood.

The Planning Commission recommends now for Council's review and consideration the enclosed draft Right-of-Way Ordinance. City Attorney Kantrud is also present at this meeting to answer any questions.

### **Request/Recommendation**

Staff requests Council:

- 1) Review and discuss the draft ordinance;
- 2) Order a public hearing and first reading; and
- 3) Determine the appropriate City Code chapter to place the ordinance.

Thanks!

Regards,  
Tobin Lay

## **RIGHT-OF-WAY ORDINANCE**

**City of Birchwood Village, Washington County, Minnesota, witnesseth:**

That an ordinance to enact a new Section of the Birchwood Village Code of Ordinances to administer and regulate the public **rights-of-way (Generally hereinafter called ROW)** in the public interest, and to provide for the issuance and regulation of ROW permits to maintain the safe maintenance and passage there-through:

### ***THE COUNCIL OF BIRCHWOOD VILLAGE ORDAINS:***

**Article I. In General, Section 32-4 through Section 32-27,** City of Birchwood Village, County of Washington, Minnesota, “Right-of-Way Ordinance” is herewith adopted into city code. Any and all previously adopted sections or articles which may appear contrary or in conflict with this ordinance are hereby replaced or modified by this code.

#### **SEC. 32-4. FINDINGS, PURPOSE AND INTENT.**

The City of Birchwood Village holds the ROW within its geographical boundaries as an asset in trust for its citizens. The City and other public entities have invested millions of dollars in public funds to build and maintain the ROW. It also recognizes that some persons, by placing their equipment in the ROW and charging the citizens of the City for goods and services delivered thereby, are using this property held for the public good. Although such services are often necessary or convenient for the citizens, such persons receive revenue and/or profit through their use of public property. Although the installation of such service delivery facilities are in most cases necessary and proper use of the ROW, the City must regulate and manage such uses.

To provide for the health, safety and well-being of its citizens and to ensure the structural integrity of its streets and the appropriate use of ROW, the City strives to keep its ROW in a state of good repair and free from unnecessary encumbrances. Although the general population bears the financial burden for the upkeep of the ROW, one of the causes for the early and excessive deterioration of its ROW is frequent excavation or other intrusions into its sub-surface area. This Article imposes reasonable fees and regulations on the placement and maintenance of equipment currently within its ROW or to be placed therein at some future time. It is intended to complement the regulatory roles of state, federal and other agencies. Under this Article, persons disturbing and obstructing the ROW will bear a fair share of the financial responsibility for its integrity. This Article also provides for recovery of the City's costs associated with managing its ROW.

#### **SEC. 32-5. EXEMPTIONS.**

The provisions and requirements of this ordinance shall not apply to inter-governmental entities that have Joint Powers Agreements with the City or other ROW users exempted by the statutes of the state of Minnesota.

## **SEC. 32-6. DEFINITIONS.**

The following words, terms and phrases, as used herein, have the following meanings:

**Abandoned Facility** - (1) a facility no longer in service and physically disconnected from a portion of the operating facility, or from any other facility, that is in use or still carries service; or (2) a facility that is deemed abandoned by the ROW user.

**Applicant** – Any person or entity requesting permission to excavate or obstruct a ROW.

**City** - means the corporate municipality, its elected officials, its manager and/or appointed employees to include the Director of Public Works or his/her designee, City of Birchwood Village, Minnesota.

**City Management Costs** - the actual costs incurred by the City for public ROW management; including, but not limited to, costs associated with registering applicants seeking permission to excavate or obstruct a ROW; issuing, processing and verifying ROW permit applications; inspecting job sites and restoration projects; maintaining, supporting, protecting or moving user equipment during public ROW work; determining the adequacy of ROW restoration; restoring work inadequately performed after providing notice and opportunity to correct the work; mapping of "as built" locations of facilities located in ROW; and revoking ROW permits and performing all other functions required by this Article, including other costs the City may incur in managing the provisions of this Article.

**Degradation** – means a decrease in the useful life of the ROW caused by excavation in or disturbance of the ROW, resulting in the need to reconstruct such ROW earlier than would be required if the excavation or disturbance did not occur. This condition is only applicable in ROW's that are not included in the current 5-year street replacement plan scheduled for full removal and reconstruction.

**Degradation Cost** – subject to Minnesota Rules 7819.1100 means the cost to achieve a level of restoration, as determined by the city at the time the permit is issued, not to exceed the maximum restoration shown on Birchwood Village plates 1 to 13, and set forth in Minnesota Rules parts 7819.9900 to 7819.9950.

**Degradation Fee** – Means the estimated fee established at the time of permitting by the city to recover costs associated with the decrease in the useful life of the ROW caused by the excavation, and which equals the degradation cost. This fee does not include the cost of patching, which is the sole responsibility of the ROW user.

**Delay Penalty** - In accordance with Minnesota Rule 7819.1000 subd. 3, the director shall impose a delay penalty for unreasonable delays in ROW excavation, obstruction, patching, or restoration by permittee. The delay penalty shall be proposed by the director and established from time to time by city council resolution.

**Director** - the City's ADMINISTRATOR or designee.

**Emergency** - a condition that (1) poses a clear and immediate danger to life or health, or of a significant loss of property; or (2) requires immediate repair or replacement in order to restore service to a customer.

**Emergency Hole** - excavation of a hole necessitated by a condition creating a clear and immediate threat to life, health, safety or property or requiring immediate repair or replacement in order to restore service to a customer.

**Engineer** – the City's Appointed or approved Engineer or Engineering Firm.

**Equipment** - any tangible asset used to install, repair or maintain facilities in any ROW.

**Excavate** - to dig into remove or physically disturb or penetrate any part of a ROW.

**Excavation Permit** - a permit which must be obtained before a person may excavate in a ROW. An excavation permit allows the holder to excavate only in that part of the ROW described in the permit.

**Facility or Facilities** - any tangible asset in the ROW required to provide utility service. The term does not include facilities to the extent the location and relocation of such facilities are preempted by Minnesota Statute 161.45, governing utility facility placement in state trunk highways.

**Franchise** – any person or entity with tangible assets or equipment in the ROW for the purpose of providing utility service to the general public having been previously approved by the city by written agreement, contract or by franchise ordinance.

**Hole** - an excavation having a length on the long side that is less than 2 times the dimension of the width of the excavation and that conforms to O.S.H.A. standards.

**Obstruct** - to place any tangible object in a public ROW so as to hinder free and open passage over that or any part of the ROW for an aggregate period of five (5) hours or more in conjunction with the issuance of a ROW permit.

**Obstruction Permit** - a permit which must be obtained before a person may obstruct a ROW, allowing the holder to hinder free and open passage over the specified portion of that ROW by placing equipment described therein on the ROW for the duration specified in the permit.

**Patch or Patching** - a method of pavement replacement that is considered temporary in nature. A patch consists of (1) the compaction of the sub base and aggregate base, and (2) the replacement in kind, to match the existing pavement per Birchwood Village Plates 1-13. A patch shall be considered “full restoration” only if the pavement is included in the City's five year project plan.

**Pavement Repair Plates** – Drawings and details for the reconstruction and repair of Birchwood Village ROW pavements (all types) that are herewith copied and adopted from the original thirteen (13) plates as suggested and provided by the Minnesota Public Utilities Commission and any supplemental additions as provided by the City of Birchwood Village.

**Permit Holder** - any person to whom a permit to excavate, obstruct, or place equipment or facilities in a ROW has been granted by the City under this Article.

**Person** – a private individual or authorized representative or agent of an entity subject to all laws and rules of this state, however organized, whether public or private, whether domestic or foreign, whether for profit or nonprofit, and whether natural, corporate, or political.

**Registrant** - any person or entity that digs, excavates, intrudes or has or seeks to have its facilities or equipment located in any ROW for temporary or permanent placement

**Restoration or “Full Restoration”** - the process by which the ROW and surrounding area, including pavement, foundation, and turf areas is returned to the same or better condition and life expectancy that existed immediately before excavation.

**Restoration Cost** - the amount of money paid to the City by a permit holder to have the city or its designated contractor perform the work to achieve the required level of restoration according to Birchwood Village plates 1 to 13, which are attached hereto and incorporated herein.

**ROW** – (Right-of-Way) - the area on, below, or above a public roadway, highway, street, cart way, bicycle lane, and public sidewalk in which the City has an interest, including other dedicated ROW for travel purposes and/or utility easements of the City.

**ROW Engineer** – that person or persons appointed, directed and empowered by the City of Landfall Village to administrate the management of the Office of the Right-of-Way Engineer and those necessary responsibilities empowered by the City ROW Ordinance.

**ROW Permit** - either an excavation permit or obstruction permit, or both, depending on the context required by this Article.

**ROW User** - (1) a telecommunications ROW user as defined by Minnesota Statutes, Section 237.162, subdivision 4; or (2) a person owning or controlling a facility in the public ROW that is used or is intended to be used for providing utility service and who has a right under the law, franchise, or ordinance to use the public ROW.

**Trench** - an excavation having a length that is in excess of two (2) times the width of the excavation for the sections of roadway where the work is occurring, including a directional bore.

**Utility or Utility Service** – means services provided by: (1) a public utility as defined in Minnesota Statutes, section 216B.02; (2) services of a telecommunications ROW user, including the transporting of voice or data information;; (3) services provided by a cable communications system as defined in Minnesota Statutes, Chapter 238;(4) natural gas or electric energy or telecommunications services provided by a local government unit; (5)services provided by a cooperative electric association organized under Minnesota Statutes, chapter 308A; and (6) water, sewer, steam, cooling, heating services, community television antenna system, fire and alarm communications, storm sewer, light, or power services including wind generation.

**Wireless Telecommunication Facility** - a tangible asset used to provide wireless telecommunication or data services, including all antennas, support devices, equipment including ground equipment, associated cables, and attachments.

## **SEC. 32-7. REGISTRATION.**

(a) **Registration Required Prior to Work.** No one shall construct, install, repair, remove, relocate or perform any work within any ROW without first being registered pursuant to this Section. Such registration shall be made on an application form provided by the City's Department of Public Works and shall be accompanied by the registration fee set forth in this Code. Registration and the accompanying fee shall be required each calendar year. A franchised service or utility service operating under this section shall be registered pursuant to this Section but need not annually provide registration information as required by subsection (c) of this Section if such information has been submitted pursuant to a franchise agreement or ordinance. Further, a franchised service or utility service operating pursuant to a franchise agreement or ordinance shall be exempt from payment of an annual registration fee providing said franchise fee has been paid per written agreement or ordinance. Exceptions to the registration requirements, as described in section 32-7, shall be determined at the discretion of the ROW Engineer.

(b) **Exceptions.** The following are not subject to the requirements of this Section:

(1) Person or Persons planting or maintaining pre-approved boulevard surface plantings or gardens.

(2) Person or Persons installing mail boxes or private sidewalk from street or curb to dwelling or commercial structure.

(3) Person or Persons engaged in commercial or private snow removal activities.

(4) Person or Persons installing street furnishings.

(5) Person or Persons installing irrigation systems.

(6) City of Birchwood Village

(7) Persons acting as agents, contractors or subcontractors for a registrant who has properly registered in accordance with this Section.

(c) **Registration Information.** The registrant shall provide the following at the time of registration and shall promptly notify the City of changes in such information:

(1) Registrant's name, address, telephone number, facsimile number and Gopher One Call registration certificate number if required by state law.

(2) Name, address, telephone number and facsimile number of the person responsible for fulfilling the obligations of the registrant.

(3) Unless exempted by previous or existing agreements or ordinance, a current Certificate of Insurance from a company licensed to do business in the State of Minnesota providing minimum coverage in the following amounts:

**GENERAL LIABILITY:**

Public Liability, including premises, products and complete operations

Bodily Injury Liability - \$1,000,000 each person, \$3,000,000 each occurrence

Property Damage Liability - \$3,000,000 each occurrence

In lieu of (1) & (2): All Combined - \$3,000,000 single limit

**COMPREHENSIVE:**

Automobile Liability Insurance, including owned, non-owned and hired vehicles.

Bodily Injury Liability - \$1,000,000 each person, \$3,000,000 each occurrence

Property Damage Liability - \$3,000,000 each occurrence

In lieu of (1) and (2) Bodily Injury and Property Damage Combined - \$3,000,000 single limit. Such certificate shall verify that the registrant is insured against claims for personal injury, including death, as well as claims for property damage arising out of the (i) use and occupancy of the ROW by the registrant, its officers, agents, employees and permit holders, and (ii) placement and use of equipment or facilities in the ROW by the registrant, its officers, agents, employees and permit holders, including but not limited to, protection against liability arising from completed operations, damage of underground equipment and collapse of property. Such certificate shall also name the City as an additional insured as to whom the coverage required herein are in force and applicable and for whom defense will be provided as to all such coverage. Such certificate shall require that the City be notified thirty (30) days prior to cancellation of the policy.

(4) A 24 hour emergency number.

(5) An acknowledgment by the registrant of the indemnification pursuant to this Code.

(6) Such additional information as the City may require.

### **SEC. 32-8. FRANCHISE REPORTING OBLIGATIONS.**

Each franchise registrant shall, at the time of registration and not later than November 1st of the preceding year, file a proposed construction and major maintenance plan for underground facilities with the City.

Such plan shall be submitted using a format designated by the City and shall contain the information determined by the City to be necessary to facilitate construction coordination and reduction in the frequency of excavations and obstructions of ROW.

The plan shall include, but not be limited to, the following information:

(a) To the extent known, the locations and the estimated beginning and ending dates of all projects to be commenced during the next calendar year; and

(b) To the extent known, the tentative locations and estimated beginning and ending dates for all projects contemplated for the five years following the next calendar year.

The City will have available for inspection in the Engineer's office a composite list of all known or planned projects that have been adopted for the next calendar year. All registrants are responsible for keeping themselves informed of the current status of this improvement list. Each franchise registrant must notify the City immediately of any change in its list of planned projects.

### **SEC. 32-9. PERMIT REQUIREMENT.**

#### **(a) Permit Required.**

No person may obstruct or excavate any ROW without first having been issued the appropriate ROW permit pursuant to this Section, except as otherwise provided in this Code. Exceptions to the permitting requirements, as described in section 32-9(3)(h), shall be made at the discretion of the ROW Engineer.

(1) **Excavation Permit.** An excavation permit is required by the registrant to excavate that part of the ROW described in each permit that may hinder free and open passage over the specified portion of the ROW when placing or repairing facilities therein, to the extent and for the duration specified in the permit.

(2) **Obstruction/Aerial/Interduct Permit.** An obstruction/aerial/interduct permit is required by a registrant if the work proposed may hinder free and open passage over the specified portion of ROW by placing or repairing equipment described therein within the ROW, to the extent and for the duration specified in the permit. An obstruction/aerial/interduct permit is not required if a registrant has been issued a valid excavation permit for the same project.

(3) **Pole Attachment Permit.** A pole attachment permit is required by the registrant in order to attach a wireless telecommunication facility to an existing public utility structure in the public ROW. A pole attachment permit is not required if a registrant has been issued a valid excavation permit for the same project.

(b) **Permit Extension.** No person may excavate or obstruct the ROW beyond the date or dates specified in the permit or do any work outside the area specified in the permit unless such person makes a supplementary application before the expiration of the permit. Payment of all fees for an extension of the permit is required before extension may be granted by the City; If the work could not be completed because of circumstances beyond the control of the permit holder or the work was delayed or prohibited by unseasonable or unreasonable conditions, the City may grant and extend the completion date of the work.

(c) **Delay Penalty.** Notwithstanding Subsection (b) of this Section, the City may impose a delay penalty where excavating or obstruction work in the ROW is not completed within the time specified if no permit extension application has been made prior to the expiration date of the permit.

A delay penalty will not be imposed if the delay is due to circumstances beyond the control of the applicant, including without limitation inclement weather, acts of God, or civil strife.

(d) **Application and Fee.** An application for a ROW permit shall be made on forms provided by the City and shall be accompanied by a fee as set forth from time by the City which is established to reimburse the City for costs. A person who pays a franchise fee to the City in accordance with a franchise agreement shall be exempt from the payment of permit fees. If the work is to be performed by an agent, contractor, or subcontractor on behalf of the registrant, such application shall be signed by the registrant. The application shall also be accompanied by the following:

(1) Scaled drawings showing the location of all known existing facilities and improvements proposed by the applicant. The applicant will be requested to submit in English measurement two (2) paper copies at 1" = 50' scale plans at the smallest and/or one (1) copy in Auto CAD format (Washington County Coordinate system) with X, Y, Z dimensions to foot accuracy electronic plan. All plans must be dimensional and show existing utilities, curb and gutter, sidewalks, bikeways, signal poles, driveways, boxes, relevant structures, property lines and corners and property addresses.

(2) A description of the methods that will be used for installation.

(3) A proposed schedule for all work.

(4) The location of any public streets, sidewalks or alleys that will be temporarily closed to traffic during the work and proposed detour route with appropriate signage.

(5) A description of methods for restoring any public improvements disrupted by the work.

(6) Any other information reasonably required by the City.

(e) **Security.** A performance bond and cash deposit in an amount determined by the City shall be required from each applicant. The applicant, at its option, may post security sufficient to cover all projects contemplated for the current calendar year. The performance bond must be approved by the City Attorney. Security required pursuant to this Subsection shall be conditioned that the holder will perform the work in accordance with this Article and applicable regulations and will pay to the City any costs incurred by the City in performing work pursuant to this Article. Said conditions will indemnify and save the City and its officers, agents and employees harmless against any and all claims, judgment or other costs arising from any excavation and related work covered by the ROW permit. And to include further indemnification by reason of any accident or injury to persons or property through the fault of the permit holder, either for improperly fencing and guarding the excavation or for any other injury resulting from the negligence or willful actions of the permit holder. The bond or any unused portions of a cash deposit shall be released by the City upon completion of the work and compliance with all conditions imposed by the ROW permit. For permits allowing excavations within public streets, such bond or unused part of a cash deposit shall be held for a period of twenty-four (24) months to guaranty adequacy of all restoration work.

(f) **Permit Issuances; Conditions.** The City shall grant a ROW permit upon finding the work will comply with the requirements of this Article. The City may impose reasonable conditions upon the issuance of the permit and the performance of the applicant there under to protect the public health, safety and welfare, to insure the structural integrity of the ROW, to insure completion of restoration of the ROW within a specified period, to protect the property and safety of other users of the ROW and to minimize the disruption and inconvenience to the traveling public. If it is determined by the Office of the ROW Engineer that the proposed ROW intrusion or use is not in the best interest of the city and no agreement or alternative compromise solution is feasible, the applicant may appeal the Engineers decision to the Director of Public Works. Should the issue there remain unresolved, the applicant may then request to address the case before the Birchwood Village City Council for final disposition. If the applicant's ROW permit application is terminated at any given level, the City may at its discretion elect to grant a partial refund of fees that may have been paid but shall not disburse any part of the basic Registration Fee or more than 50% of the Administrative Fees. No ROW permit shall be issued to any person who has failed to register pursuant to this code.

(g) **Dumpsters/Portable-on-Demand-Storage (POD) Units.** The placement of dumpsters or POD units in the street portion of the ROW is not allowed. Dumpsters or POD units may be placed within the boulevard or driveway portions of the ROW provided that they do not obstruct pedestrian traffic along sidewalks or trails and the boulevard is restored to previous conditions. In extraordinary circumstances, the City Right of Way Engineer may make exceptions to this provision and applicant shall be subject to the permitting and fee requirements of this ordinance.

(h) **Exceptions.** No permit shall be required for the following:

- (1) Approved surface landscaping work.
- (2) Approved private sidewalks, street furnishings, posts and pillars.
- (3) Snow removal activities.
- (4) Irrigation systems provided that the system does not connect directly to water mains in the ROW installed at the property owner risk.
- (5) Activities of the City of Birchwood Village.
- (6) If granted approval by the city, piercing or drilling a street or sidewalk/trail pavement for the purpose of exploratory examination or utility depth determination.

#### **SEC. 32-10. TIMELINESS OF WORK.**

The work to be done under the ROW permit and the patching and restoration of the ROW as required herein, must be completed within the dates specified in the permit. It may be increased by as many days as work could not be done because of circumstances beyond the control of the permit holder or when work was prohibited as unseasonable or unreasonable.

#### **SEC. 32-11. STANDARDS FOR CONSTRUCTION OR INSTALLATION.**

(a) **General Standards.** The permit holder shall comply with the following standards, to the extent consistent with applicable Minnesota rules, when performing the work authorized under the permit:

- (1) Take such precautions as are necessary to avoid creating unsanitary or unsafe conditions. Observe and comply with all laws, rules and regulations of the State and local governments.
- (2) Conduct the operations and perform the work in a manner as to insure the least obstruction to and interference with traffic.
- (3) Take adequate precautions to insure the safety of the general public and those who require access to abutting property.
- (4) Notify adjoining property owners prior to commencement of work which may disrupt the use of and access to such adjoining properties.
- (5) Comply with the Minnesota Manual of Uniform Traffic Control Devices at all times during construction or installation.
- (6) Exercise precaution at all times for the protection of persons, including employees and property.
- (7) Protect and identify excavations and work operations with barricade flags and if required, by flagmen in the daytime and by warning lights at night.
- (8) Provide proper trench protection as required by O.S.H.A..
- (9) Protect the root growth of trees and shrubbery.
- (10) Where possible, provide for space in the installation area for other telecommunication ROW users and companies that install facilities in public ROW.
- (11) Maintain maximum access to all properties and cross streets as possible during construction operations and maintain emergency vehicle access at all times.
- (12) Maintain planned alignment and grade unless otherwise authorized by the City. Field changes not approved by the City will require removal and reconstruction.
- (13) During trenching of facilities, a warning tape must be placed at a depth of twelve (12) inches above all copper cables with over two hundred (200) pairs and above any fiber facilities.
- (14) Beneath concrete or bituminous paved road surfaces, directional bore facilities shall be installed in conduit of a type approved by the city.
- (15) The placing of all telecommunications facilities must comply with the National Electric Safety Code, as incorporated by reference in Minn. Stat. Sec. 326.243.

(16) Locate all property lines near ROW lines and replace any disturbed property corner markers or judicial monuments. A Minnesota licensed surveyor must be used in the replacement of disturbed property corners markers or judicial monuments.

(17) Excavations, trenches and jacking pits off the roadway or adjacent to the roadway or curbing shall be sheathed and braced depending upon location and soil stability and as directed by the City.

(18) Excavating, trenches and jacking pits shall be protected when unattended to prevent entrance of surface drainage.

(19) All backfilling materials must be placed in 6 inch lifts (maximum) at optimum moisture and compacted with the objective of attaining ninety-five percent (95%) of Standard Proctor Density. Compaction shall be accomplished with hand, pneumatic or vibrating compactors as appropriate.

(20) Backfill material shall be subject to the approval of the City. The City may permit backfilling with the material from the excavation provided such material is granular in nature and acceptable to the City.

(21) Compacted backfill shall be brought to bottom of the gravel of the approved street section.

(22) All work performed in the ROW shall be done in conformance with Birchwood Village Plates 1 to 13, unless a less stringent standard is approved by the City.

(23) Street and pedestrian traffic shall be maintained throughout construction unless provided otherwise by the permit.

(24) No road surface damaging lugs, cleats or equipment may be used or driven upon paved city street surfaces.

(25) Dirt, trash or other debris must be periodically removed during construction

(26) Other reasonable standards and requirements of the City.

(b) **Standards for Installation of Underground Utilities.** The permit holder shall comply with the following standards when installing facilities underground:

(1) Underground facilities must be placed as far off the roadway as possible to provide access from outside of the paved area.

(2) Buried fiber facilities shall be at a minimum depth of three (3) feet and a maximum depth of four (4) feet unless an alternate location is approved by the City. Buried copper facilities beneath concrete or bituminous paved road surfaces must be placed at no less than three (3) feet but no more than four (4) feet deep. Other buried copper facilities must be placed at a minimum depth of thirty (30) inches and a maximum depth of four (4) feet.

(3) Crossing of streets and hard surfaced driveways shall be directional bored unless otherwise approved by the City.

(4) If construction is open cut, the permit holder must install the visual tracers approximately twelve (12) inches above buried facilities. If other construction methods are used, substitute location methods will be considered.

(5) The permit holder shall register with Gopher State One Call and comply with the requirements of that system.

(6) Compaction in trench backfill material shall be ninety-five percent (95%) of the standard proctor density and copies of test results shall be submitted to the City. All tests and their locations shall be determined by the City. Tests must be conducted by an independent testing firm approved by the City. Street pavement replacement will not be permitted until sub-base densities are approved by the city. Testing shall be required at the discretion of the ROW engineer. Street Pavement structure and materials shall be as specified by the city and re-paved in accordance with Birchwood Village plates 1-13. All pavement replacement shall be done in the presence of a City inspector with certified pavement material to City specifications.

(7) The facilities shall be located so as to avoid traffic signals and signs which are generally placed a minimum of five (5) feet behind the curb.

(8) When utilizing trenchless installation methods to cross an area in which a municipal utility is located, and/or when directed by the City, the permit holder shall excavate an observation hole over the utility to ensure that the City utility is not damaged. Observation holes shall not be backfilled until viewed and approved by the city ROW Inspector.

(9) All junction boxes or access points shall be located no closer than ten (10) feet from municipal fire hydrants, valves, manholes, lift stations or catch basins unless an alternate location is approved by the City.

(10) Underground facilities shall not be installed between a hydrant and auxiliary valve.

(11) Underground facilities shall not be installed within five (5) feet of hydrants, valves, lift stations or manholes in areas where utility easements exist beyond the ROW. In those areas in which no utility easement exists, placement of an underground facility shall be between the edge of pavement and no closer than three (3) feet to an existing municipal utility appurtenance unless approved by the City.

(12) In areas where an extensive effort to determine the location of municipal utility lines will be required to accommodate the installation of private facilities, the City's representative for Gopher State One Call must be contacted by the permit holder two (2) weeks prior to the beginning of the work to schedule meetings.

(13) Buried telecommunication facilities must have a locating wire or conductive shield, except for di-electric cables.

(14) Buried fiber facilities must be placed in a conduit of a type determined by the ROW user unless the permit holder obtains a waiver from the City.

(c) **Standards for Installation of Overhead Facilities.** The permit holder shall comply with the following standards when installing facilities overhead:

(1) All wires must be in compliance with the National Electric Safety Code and at a location that does not interfere with traffic signals, overhead signs, or street lights.

(d) **Standards for Wireless Telecommunication Facilities.**

(1) **Purpose.** The City of Birchwood Village desires high quality wireless communication services to accommodate the needs of residents and businesses. At the same time, the City strives to minimize the negative impacts that wireless telecommunication facilities can have on aesthetics and public safety. Due to the many services that must be delivered within its limited area, the City also strives to avoid unnecessary encumbrances within the public ROW. The City allows and regulates wireless telecommunication facilities outside of the public ROW through performance standards and height limits. The purpose of this Section is to regulate wireless telecommunication facilities within the public ROW in a manner that balances desire for service with aesthetic, public safety, and ROW flexibility concerns.

Public ROW are appropriate locations for wireless telecommunication facilities that present minimal impacts (i.e. small pole attachments that do not require new poles, do not require pole extensions, and do not have associated ground mounted equipment).

Wireless telecommunication facilities that require greater heights than can be afforded by existing poles in the public ROW and that require ground-mounted equipment are more appropriately sited outside the public ROW in accordance with adopted performance standards of this Code. However, the City recognizes that as wireless technology advances, some residential areas of the City may be hard to serve with wireless technology due to the lack of acceptable siting alternatives in the immediate vicinity. In such areas, where no alternative non-ROW locations are available, wireless telecommunication facilities that require pole extensions and ground equipment will be allowed in the public ROW subject to the requirements of this Section which are meant to protect the public health, safety, and welfare.

**(2) Wireless Telecommunication Facilities as Pole Attachments.** Wireless telecommunication facilities that comply with the following requirements may be attached to existing public utility structures within the ROW after issuance of a pole attachment permit.

(A) The wireless telecommunication facility shall not extend above the top of the existing public utility structure and the height of the existing public utility structure shall not be increased to accommodate the wireless telecommunication facility.

(B) If the public utility structure must be replaced to structurally accommodate the wireless telecommunication facility, the replacement public utility structure height shall not exceed the existing public utility structure height and the replacement public utility structure diameter shall not exceed the existing public utility structure diameter by more than 50 percent.

(C) The wireless telecommunication facility shall not be larger than three (3) cubic feet and shall have no individual surface larger than four (4) square feet.

(D) The wireless telecommunication facility shall not extend outward from the existing pole or tower or arm thereof by more than two and one half (2 1/2) feet, except that an antenna one half inch in diameter or less may extend an additional six inches.

(E) The wireless telecommunication facility shall include no ground mounted equipment.

(F) The wireless telecommunication facility shall not interfere with public safety communications and shall meet the requirements of this Code.

(G) Wireless telecommunication facilities in the ROW shall be removed and relocated at City request subject to the provisions of this Article.

(H) The wireless telecommunication facility shall not block light emanating from the public utility structure and shall not otherwise interfere with the original use of the public utility structure.

**(3) Wireless Telecommunication Facilities as Pole Extensions or with Ground Mounted Equipment.** Wireless telecommunication facilities that require increased public utility structure height or that have ground mounted equipment may be erected in the public ROW only when in compliance with the following provisions and after issuance of a pole attachment permit or excavation permit:

(A) The applicant shall demonstrate to the satisfaction of the City or his/her designee that the wireless telecommunication facility cannot be placed in a Code complying location outside the ROW within one quarter (1/4) mile of the proposed location.

(B) The replacement public utility structure, including lightning rods and all other attachments, shall not exceed the height of the existing public utility structure by more than fifteen (15) feet. Once the height of a public utility structure has been increased under the provisions of this Section, the height shall not be further increased.

(C) The replacement public utility structure diameter shall not exceed the existing public utility structure diameter by more than fifty (50) percent.

(D) The wireless telecommunication facility shall not extend outward from the public utility structure by more than two (2) feet.

(E) If feasible and desirable, as determined by the City, the replacement public utility structure shall match the original and surrounding public utility structures in materials and color.

(F) The wireless telecommunication facility shall not interfere with public safety communications and shall meet the requirements of this Code.

(G) A pole attachment or excavation permit for a wireless telecommunication facility that has ground mounted equipment will be issued only if the Issuing Authority finds the following:

(i) the ground mounted equipment will not disrupt traffic or pedestrian circulation;

(ii) the ground mounted equipment will not create a safety hazard;

(iii) the location of the ground mounted equipment minimizes impacts on adjacent property; and,

(iv) the ground mounted equipment will not adversely impact the health, safety, or welfare of the community.

(H) Ground mounted equipment associated with the wireless telecommunication facility shall meet the following performance standards:

(i) be set back a minimum of ten (10) feet from the edge of street or curb line;

(ii) be separated from a sidewalk by a minimum of three (3) feet;

(iii) be set back a minimum of fifty (50) feet from the nearest intersecting ROW line;

(iv) be separated from the nearest ground mounted wireless telecommunication equipment installation on the same block face by a minimum of 330 feet unless the equipment is placed underground;

(v) if located adjacent to residential uses, ground mounted equipment shall be limited to three (3) feet in height above grade and twenty seven (27) cubic feet in cumulative size;

(vi) if located adjacent to non-residential uses, ground mounted equipment shall be limited to five (5) feet in height above grade and eighty-one (81) cubic feet in cumulative size;

(vii) ground mounted equipment located outside the public ROW shall conform to the requirements of this Code.

(viii) vegetative or other screening compatible with the surrounding area shall be provided around the ground mounted equipment if deemed necessary by the City.

(I) Wireless telecommunication facilities in the ROW shall be removed and relocated at City request subject to the provisions of this Article.

(4) **New Poles.** The construction in the ROW of a new pole to support wireless telecommunication facilities is not allowed, except as a replacement of an existing public utility structure subject to the requirements of this Section.

(5) **Charges.** In addition to the permit fees outlined in this Code, the City reserves the right to charge telecommunication providers for their use of the public ROW to the extent that such charges are allowed under state or Federal law. Telecommunication providers shall be responsible for payment of property taxes attributable to their equipment in the public ROW.

#### **SEC. 32-12. PATCHING OR FULL RESTORATION OF ROW.**

The permit holder shall patch its own work. In lieu of ROW restoration, a ROW user may elect to pay a degradation fee as determined by the City.

(a) **City Restoration.** If the City restores the ROW, the permit holder shall pay the costs thereof within thirty (30) days of billing. If, during the twenty-four (24) months following such surface restoration, the pavement settles due to the permit holder's improper backfilling and compaction, the permit holder shall pay to the City, within thirty (30) days of billing, all costs associated with having to correct the defective work.

(b) **Permit Holder Restoration.** If the permit holder restores the ROW, it shall at the time of application for a ROW permit post a performance bond or cash deposit in an amount determined by the City to be sufficient to cover the cost of restoration and any associated erosion and sediment control measures. The performance bond or cash deposit must be approved by the City Attorney. If, within twenty-four (24) months after completion of restoration of the ROW, the City determines the ROW has been properly restored, the posted security will be released.

(c) **Standards.** The permit holder shall perform patching and restoration according to the Birchwood Village standards.

(d) **Guarantees.** If the permit holder performs the restoration work, the permit holder shall guarantee such work and its maintenance for twenty-four (24) months following its completion. During this twenty-four (24) month period it shall, upon notification from the City, promptly and within 7 working days from receipt of notification, correct all faulty restoration work to the extent necessary, using the method required by the City. If permit holder fails to act within the 7 working day period the City shall at its discretion have the work performed and the security shall be used to reimburse the City for its actual and administrative costs associated with the correction(s).

### **SEC. 32-13. JOINT APPLICATIONS.**

(a) **Joint Application.** Registrants may jointly apply for permits to excavate or obstruct the ROW at the same place and time.

(b) **Shared Fees.** Registrants who apply for permits for the same obstruction or excavation may share in the payment of the obstruction or excavation permit fee. Registrants must agree among themselves as to the portion each will pay and indicate the same on their applications.

### **SEC. 32-14. OTHER OBLIGATIONS.**

(a) **Compliance With Other Laws.** The permit holder must obtain all other necessary permits, licenses and approvals and pay all fees required. The permit holder shall comply with all requirements of local, state and federal laws, including Minn. Stat. Secs. 216D.01-.09 ("One Call Excavation Notice System"). A permit holder shall perform all work in conformance with all applicable codes and established rules and regulations and is responsible for all work done in the ROW pursuant to its permit, regardless of who does the work.

(b) **Prohibited Work.** Except in an emergency, and with the approval of the City, no ROW excavation or obstruction may be done when seasonally prohibited or when conditions are unreasonable for such work.

(c) **Interference with ROW.** A permit holder shall not so obstruct a ROW that the natural free and clear passage of water through the gutters or other waterways is or would be interfered with. Any physical observation of such obstruction shall be grounds to revoke a permit without further proceedings.

### **SEC. 32-15. DENIAL OF PERMIT.**

The City may deny a permit based on any of the following grounds:

(a) Failure to register pursuant to requirements of this Code.

(b) The applicant is subject to revocation of a prior permit issued pursuant to this Article.

(c) The proposed schedule for work would conflict or interfere with an exhibition, celebration, festival or any other similar event.

(d) The proposed schedule conflicts with scheduled or total or partial reconstruction of the ROW.

(e) The applicant fails to comply with the requirements of this Article or other provisions of this Code.

(f) The City determines that denial is necessary to protect the health, safety and welfare of the public or protect the ROW and its current use.

### **SEC. 32-16. EMERGENCIES AND WORK DONE WITHOUT A PERMIT.**

Each registrant shall immediately notify the City and all other affected parties or property owners of any event regarding its facilities, which it considers to be **an emergency**. The registrant may proceed to take whatever actions are necessary to respond to the emergency. If the registrant has not been issued the required permit, the registrant shall, within two (2) business days after the occurrence of the emergency, apply for the necessary permits, pay the permit fees (where necessary) and fulfill the remaining requirements necessary to bring itself into compliance with this Article for the actions it took in response to the emergency.

If the City becomes aware of an emergency regarding a registrant's facilities, the City shall attempt to contact the local representative of each registrant affected, or potentially affected, by the emergency. The City may take whatever action deemed necessary to respond to the emergency, the cost of which shall be borne by the registrant whose facilities occasioned the emergency.

Except in an emergency, any person who, without first having obtained the necessary permit, obstructs or excavates a ROW must subsequently obtain a permit and (where appropriate) as a penalty, pay twice the normal fee for the permit and shall deposit with the City the fees determined to correct any damage to the ROW.

### **SEC. 32-17. INSPECTION.**

(a) **Site Inspection.** The permit holder shall make the work site available to the City and to all others authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.

#### **(b) Authority of City**

(1) At the time of inspection, the City may order the immediate cessation of any work which poses a serious threat to the life, health, safety or well-being of the public.

(2) The City may issue a stop work order to the permit holder for any work which does not conform to the terms of the permit or other applicable standards, conditions or codes. The order shall state that failure to correct the violation within a stated deadline will be cause for revocation of the permit. If the violation is not corrected within the stated deadline, the City may revoke the permit.

### **SEC. 32-18. REVOCATION OF PERMITS.**

(a) **Substantial Breach.** The City may revoke a ROW permit, without a fee refund, if there is a substantial breach of the terms or conditions of any statute, this Code, rule or regulation, or any condition of the permit. A substantial breach of a permit holder shall include, but not limited to, the following:

- (1) The violation of any material provision of the permit.
- (2) Any material misrepresentation of fact in the application for a permit.
- (3) The failure to maintain the required bonds or other security and insurance.
- (4) The failure to complete the work in a timely manner.
- (5) The failure to correct, in a timely manner, work that does not conform to applicable standards, conditions or codes, upon inspection and notification by the City of the faulty condition.
- (6) An evasion or attempt to evade any material provision of the ROW permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the city or its citizens.
- (7) The failure to comply with the terms and conditions of any applicable federal, state and local laws, rules and regulations, including any provision of this Article.

(b) **Notice of Breach.** If the City determines that a permit holder has committed a substantial breach of a term or condition of any statute, this Code, rule or regulation or any condition of the permit, the City shall make a written demand upon the permit holder to remedy such violation within a reasonable period of time or be subject to potential revocation of the permit. The City may impose additional or revised conditions on the permit to mitigate or remedy the breach.

(c) **Reimbursement of City Costs.** If a permit is revoked, the permit holder shall reimburse the City for its reasonable costs, including restoration costs and the costs of collection and reasonable attorney fees incurred in connection with the revocation.

## **SEC. 32-19. APPEAL.**

(a) **Filing of Appeal.** Any person aggrieved by, (i) the denial of a permit application; (ii) the denial of a registration; (iii) the revocation of a permit, or (iv) the application of the fee schedule imposed by this Code, may appeal to the City Council by filing a written notice of appeal with the City Clerk or Administrator. Said notice must be filed within twenty (20) days of the action causing the appeal.

(b) **Notice of Hearing.** The City Council shall hear the appeal at its next regularly scheduled meeting, unless the time is extended by agreement of the parties. Notice of the date, time, place and purpose of the hearing shall be mailed to the appellant.

(c) **Hearing and Decision.** The City Council shall, at the hearing, consider any evidence offered by the appellant, the City and any other person wishing to be heard. The Council shall issue a written decision within thirty (30) days of the completion of the hearing.

## **SEC. 32-20. MAPPING DATA.**

(a) **Information Required.** Each registrant shall provide mapping as required by the City and which shall include the following information:

(1) Location and approximate depth of registrant's mains, cables, conduits, switches and related equipment and facilities, with the location based on:

- (A) offsets from property lines, distances from the centerline of the public ROW and curb lines as determined by the City; or
- (B) Washington County Coordinate System; or
- (C) Any other system agreed upon by the ROW user and the City;

(2) The type and size of the utility;

(3) A description showing above-ground appurtenances;

(4) A legend explaining symbols, characters, abbreviations, scale and other data shown on the map; and

(5) Any facilities to be abandoned, if applicable, in conformance with Minnesota Statutes, Section 216D.04, subdivision 3.

(b) **Submittal Requirement.**

(1) Within two (2) years after the effective date of this ordinance, all telecommunication ROW users shall submit comprehensive detailed maps, if available, in accordance with Subsection (a) of this Section, for all facilities and equipment installed, used or abandoned within the public ROW.

(2) Subsequent to providing the required comprehensive facility map, interim mapping data shall be submitted by all registrants for all equipment and facilities which are to be installed or constructed after the effective date of this ordinance at such time as permits are sought pursuant to this ordinance.

(c) **Trade Secret Information.** At the request of any registrant, information requested by the City which qualifies as "trade secret" data under Minnesota Statutes, Sec. 13.37(b) shall be treated as trade secret information as detailed therein.

#### **SEC. 32-21. RELOCATION OF FACILITIES.**

A ROW user shall promptly and at its own expense, with due regard for seasonal working conditions, remove and relocate their facilities in the ROW when it is necessary to prevent interference or obstruction, but not merely for the convenience of the City, in connection with: (1) a present or future City use of the ROW for a public project or facility, (2) the public health or safety; or (3) the safety and convenience of travel over the ROW. The registrant shall restore any ROW to the condition it was in prior to removal and relocation.

#### **SEC. 32-22. DAMAGE TO OTHER FACILITIES.**

When the City does work in the ROW and finds it necessary to maintain, support, or move registrant's facilities to protect it, the City shall notify the registrant as soon as possible. The costs associated therewith shall be billed to the registrant and must be paid within thirty (30) days from the date of billing. Each registrant shall be responsible for the cost of repairing any facilities in the ROW which it or its facilities damage. Each registrant shall be responsible for the cost of repairing any damage to the facilities of another registrant caused during the City's response to an emergency occasioned by that registrant's facilities.

#### **SEC. 32-23. ROW VACATION.**

(a) **Reservation of Right.** If the City vacates a ROW which contains the equipment or facilities of a registrant or permit holder, and if the vacation does not require the relocation of the registrant's or permit holder's equipment or facilities, the City shall reserve, to and for itself and all registrants or permit holders having equipment and facilities in the vacated ROW, a public easement for the right to install, maintain and operate any equipment and facilities in the vacated ROW and to enter upon such ROW at any time for the purpose of reconstruction, inspecting, maintaining or repairing the same.

(b) **Relocation of Facilities.** If the vacation requires the relocation of the registrant's or permit holder's equipment or facilities; and (i) if the vacation proceedings are initiated by the registrant or permit holder, the registrant or permit holder must pay the relocation costs; or (ii) if the vacation proceedings are initiated by the City, the registrant or permit holder must pay the relocation costs unless otherwise agreed to by the City and the registrant or permit holder; or (iii) if the vacation proceedings are initiated by a person or persons other than the registrant or permit holder, such person or persons must pay the relocation costs.

#### **SEC. 32-24. ABANDONED AND UNUSABLE EQUIPMENT AND FACILITIES.**

(a) **Discontinued Operations.** A registrant who has determined to discontinue all or a portion of its operations in the City must provide information satisfactory to the City that the registrant's obligations for its facilities in the ROW under this chapter have been lawfully assumed by another registrant.

(b) **Removal of Abandoned Facilities.** Any registrant who has abandoned facilities in any ROW shall remove it from that ROW to the extent such facilities interfere with another ROW repair, excavation, or construction, unless this requirement is waived by the City.

#### **SEC. 32-25. INDEMNIFICATION AND LIABILITY.**

By registering with the City or by accepting a permit granted under this Article, a registrant or permit holder agrees as follows:

(a) **Limitation of Liability.** By reason of the acceptance of a registration or the grant of a ROW permit, the City does not assume any liability (i) for injuries to persons, damage to property or loss of service claims by parties other than the registrant or the City, or (ii) for claims or penalties of any sort resulting from the installation, presence, maintenance or operation of equipment or facilities by registrants or permit holders or activities of registrants or permit holders.

(b) **Indemnification.** A registrant or permit holder shall indemnify, keep and hold the City, its officials, employees and agents, free and harmless from any and all costs, liabilities, and claims for damages of any kind arising out of the construction, presence, installation, maintenance, repair or operation of its equipment and facilities, or out of any activity undertaken in or near a ROW, whether or not any act or omission complained of is authorized, allowed or prohibited by a ROW permit. The foregoing does not indemnify the City for its own negligence except for claims arising out of or alleging the City's negligence in issuing the permit or in failing to properly or adequately inspect or enforce compliance with a term, condition or purpose of a permit. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to the registrant, permit holder or the City, and the registrant or permit holder, in defending any action on behalf of the City, shall be entitled to assert in any action every defense or immunity that the City could assert on its own behalf.

If the registrant or permit holder is required to indemnify and defend, it shall thereafter have control of the litigation, but the registrant or permit holder may not settle the litigation without the consent of the City. Such consent will not be unreasonably withheld.

**SEC. 32-26. FRANCHISE HOLDERS.**

If there is a conflict in language between the franchise of a person holding a franchise agreement with the City or the Water Service Agreement with the City and this Article, the terms of the franchise or Water Service agreement shall prevail.

**SEC. 32-27. SEVERABILITY.**

If any section, subsection, sentence, clause, phrase or portion of this Article is for any reason held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

*APPENDIX I ESSENTIAL MUNICIPAL SERVICES*

Special conditions and provisions to regulate and control ROW intrusions by essential service providers for which previous agreements or ordinances have been enacted and approved by the City in concurrence with the respective service providers.

**INDEX**

**Participating Municipal Provider:**

City of White Bear Lake  
White Bear Township  
City of St. Anthony Village

# MEMORANDUM

DATE: October 10, 2017

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TO: Birchwood City Council  
FROM: Tobin Lay, City Administrator  
SUBJECT: Zoning Administration Amendment



**Birchwood Village**

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Dear Mayor and Council Members,

Earlier this year the City Council requested the Planning Commission work with City Attorney Kantrud to review City Code 303 to consider a rewrite of the entire ordinance.

This request was stemmed by the Planning Commission's request of the Council to approve an adjustment to the Commission's set meeting time. After realizing the meeting time was fixed by ordinance, the Council reviewed City Code 303 deeper and found it to be in need of extensive changes.

The Planning Commission has worked with Kantrud several times and is now recommending the enclosed draft ordinance to replace existing City Code 303 in its entirety.

City Attorney Kantrud is present at this meeting to answer any questions.

## **Request/Recommendation**

Staff requests Council:

- 1) Review and discuss the draft ordinance;
- 2) Rescind existing City Code 303; and
- 3) Enact the enclosed draft ordinance as new City Code 303.

Thanks!

Regards,  
Tobin Lay

**ORDINANCE 2017-10-01**

**CITY OF BIRCHWOOD VILLAGE  
WASHINGTON COUNTY, MINNESOTA**

**AN ORDINANCE RESCINDING AND REPLACING THE DUTIES OF A  
CITY PLANNING COMMISSION IN CITY CODE**

The City Council of the City of Birchwood Village hereby ordains that existing Chapter 303 (Zoning Code Administration) of the Municipal Code of the City of Birchwood Village is hereby rescinded and replaced as follows:

**SECTION 303: ZONING CODE; ADMINISTRATION**

**303.010 ESTABLISHMENT OF THE PLANNING COMMISSION**

The Planning Commission is hereby established. The Planning Commission shall be the city planning agency authorized by M.S. 462.354, subd. 1, as it may be amended from time to time. Accept as otherwise provided in this ordinance, the Planning Commission shall be advisory directly to the City Council.

**303.020 COMPOSITION AND TERMS**

1. **Composition, Number.** Such Planning Commission shall consist of five members, who are residents of the city. Members shall be appointed by the City Council. In addition, the City Council shall select an ex officio member from among its own members to serve on the Commission as a council liaison to the Planning Commission. The ex officio member shall be a non-voting member who is not counted for quorum purposes.
2. **Terms.** The term of each member shall be for three (3) years.
3. **Compensation.** No members shall be compensated.
4. **Removal.** Members may be removed by the City Council by a simple majority vote of the City Council.
5. **Vacancies.** Vacancies during the term shall be filled by the City Council for the unexpired portion of the term.
6. **Oath.** Every appointed member shall, before exercising any of his or her duties, take an oath that he or she will faithfully discharge the duties of the office.

**303.030 ORGANIZATION, MEETINGS, MINUTES AND EXPENDITURES**

1. **Officers.** At the first regular meeting in January, the Planning Commission shall elect a Chairperson and a Vice-Chairperson from among its appointed members, each for a term of one year. The Planning Commission may create and fill other offices as it may determine necessary.

2. **Meeting.** The Planning Commission may hold at least one meeting each month as needed at the time and place as they may fix by resolution, subject to City Council approval and file with the City Clerk. Special meetings may be called at any time by the Chairperson, or in the case of the Chairperson's absence, by the Vice-Chairperson, or as directed by the City Council or Mayor.
3. **Commission Policy on Meetings, Organizational Form and Rules of Order.** Subject to approval by the City Council, the Planning Commission may adopt rules of order or bylaws for the transaction of business, ordering meetings, adopting findings of fact and holding public hearings.
4. **Minutes.** Written minutes of meetings shall be kept and filed with the City Clerk prior to the next regularly scheduled City Council meeting, but shall be subject to approval at the next Planning Commission meeting.
5. **Expenditures.** No expenditures by the city on behalf of the Planning Commission shall be made unless and until authorized by the City Council.

303.040 **ATTENDANCE**

Duly appointed members of the Planning Commission shall be required to attend no less than half the official meetings of the Planning Commission held within a given calendar year unless specifically excused by the Chair of the Planning Commission and said excused absences noted in the minutes. Failure to attend no less than half of the official meetings within a given calendar year, without excuse of the Chair of the Planning Commission, shall be considered as formal notice of resignation from said Planning Commission. In addition, failure to attend four-consecutive regular meetings without excuse of the Chair of the Planning Commission, shall be considered as formal notice of resignation from said Planning Commission.

303.050 **STAFF FOR THE COMMISSION**

The City Clerk or Administrator, Building Inspector, City Planner, City Engineer and City Attorney may act as staff for the Planning Commission and may be required at times to attend commission meetings. City Staff may provide the Commission with information as requested by the Commission. The City Administrator-Clerk or other person may perform secretarial duties for the Commission, such as the keeping of minutes, and may be responsible for the keeping of records.

303.060 **POWERS AND DUTIES**

1. **Generally.** The Planning Commission shall have the powers and duties given to city planning agencies generally by law, including the authority to conduct public hearings as directed by City Council or city policy. The Planning Commission also shall exercise the duties conferred upon it by this ordinance.
2. **Comprehensive Plan.** It shall be the purpose of the Planning Commission to prepare and adopt a comprehensive plan for the physical development of the city, including

proposed public buildings, street arrangements and improvements, efficient design of major thoroughfares for moving of traffic, parking facilities, public utilities services, parks and playgrounds, a general land use plan and other matters relating to the physical development of the city. This plan may be prepared in sections, each of which shall relate to a comprehensive plan program. After the City Council has adopted the comprehensive plan, the Planning Commission may periodically, but at least every five years, review the comprehensive plan and any ordinances or programs implementing the plan.

3. **Means of Executing Plan.** Upon the adoption of a comprehensive plan or any section thereof, it shall be the concern of the Planning Commission to recommend to the City Council reasonable and practical means for putting into effect the plan or section thereof, in order that it will serve as a pattern and guide for the orderly physical development of the city and as a basis for judging the timely disbursements of funds to implement the objective. Means of effectuating the plan, among other things, shall consist of a zoning ordinance, subdivision regulations, capital improvement programming and technical review, and recommendations of matters referred to the Planning Commission by the City Council.
4. **Zoning Ordinance.** Pursuant to M.S. 462.357, subd. 3, as it may be amended from time to time, after adoption of a comprehensive plan, the Planning Commission shall review all proposed amendments to the zoning ordinance, conduct public hearings as directed by City Council or city policy, and make recommendations to the City Council concerning zoning ordinance amendments and their relation to the city comprehensive plan and other land use controls. The Planning Commission shall report its recommendations to the City Council for action.
5. **Conditional Permits.** The Planning Commission may make recommendations on all requests for a conditional use permit under the terms of the zoning ordinance and conduct public hearings as directed by City Council or city policy. The Planning Commission shall report its recommendations to the City Council for action.
6. **Interim Use Permits.** The Planning Commission may make recommendations on all requests for an interim use permit under the terms of the zoning ordinance and conduct public hearings as directed by City Council or city policy. The Planning Commission shall report its recommendations to the City Council for action.
7. **Subdivision Regulations.** The Planning Commission may make recommendations about the subdividing of land as prescribed by the ordinance and conduct public hearings as directed by City Council or city policy. The Planning Commission shall report its recommendations to the City Council for action.
8. **Zoning Variances.** All applications for variances may be referred to the Planning Commission, and forwarded with or without recommendations directly to the City Council. The City Council shall have the powers of a Board of Appeals and

Adjustments as provided for in M.S. 462.357, subd. 6, as it may be amended from time to time for its decision.

9. **Official Map.** Pursuant to M.S. 462.359, subd. 2, as it may be amended from time to time, after adoption of a major thoroughfare plan and a community facilities plan (which may be contained in the city comprehensive plan or adopted separately), the Planning Commission, for the purpose of carrying out the policies of the major thoroughfare plan and community facilities plan, may prepare and recommend to the governing body a proposed official map covering the entire municipality or any portion thereof. The official map or maps shall be prepared in sufficient detail to permit the establishment of the future acquisition lines on the ground. In unplatted areas, a minimum of a centerline survey shall have been made prior to the preparation of the final draft of the official map. The accuracy of the future acquisition lines shown on the official map shall be attested to by a licensed land surveyor.
10. **Appeals to Denials of Zoning, Land Use or Building Permits Based on the Official Map.** All appeals to denials of zoning, land use or building permits based on the official map may be referred to the Planning Commission, and forwarded with or without recommendations directly to the City Council. The City Council shall have the powers of a Board of Appeals and Adjustments as provided for in M.S. 462.359, subd. 4, as it may be amended from time to time for its decision.
11. **Purchase and Sale of Real Property.** Pursuant to M.S. 462.356, subd. 2, as it may be amended from time to time, after adoption of a comprehensive plan, the Planning Commission shall review all proposed acquisitions or disposals of publically owned interests in real property within the city by the municipality, or any special district or any agency thereof, or any other political subdivision having jurisdiction within the municipality, and make findings as to the compliance of the proposed acquisition or disposal of real property with the comprehensive municipal plan. The City Council may by resolution adopted by two-thirds vote dispense with the requirements of this section when in its judgment it finds that the proposed acquisition or disposal of real property has no relationship to the comprehensive municipal plan.
12. **Capital Improvements.** Pursuant to M.S. 462.356, subd. 2, as it may be amended from time to time, after adoption of a comprehensive plan, the Planning Commission shall review all proposed capital improvements within the city by the municipality, or any special district or any agency thereof, or any other political subdivision having jurisdiction within the municipality, and make findings as to the compliance of the proposed capital improvement with the comprehensive municipal plan. The City Council may by resolution adopted by two-thirds vote dispense with the requirements of this section when in its judgment it finds that the proposed acquisition or disposal of real property has no relationship to the comprehensive municipal plan.
13. **Comprehensive Plan Amendments.** Pursuant to M.S. 462.355, subds. 2, 3, as it may be amended from time to time, after adoption of a comprehensive plan, the

Planning Commission shall review all proposed amendments to the comprehensive plan, hold at least one public hearing, and make recommendations to the City Council comprehensive plan amendments and their relation to the city comprehensive plan and other land use controls. The Planning Commission shall report its recommendations to the City Council for action.

EFFECTIVE DATE: This ordinance becomes effective on the date of its publication, or upon the publication of a summary of the ordinance as provided by M.S. § 412.191, subd. 4, as it may be amended from time to time, which meets the requirements of M.S. § 331A.01, subd. 10, as it may be amended from time to time.

Adopted by the City of Birchwood Village City Council this 10<sup>th</sup> day of October, 2017

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Mary Wingfield  
Mayor

Attest:

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Tobin Lay  
City Administrator-Clerk

# MEMORANDUM

DATE: October 10, 2017

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TO: Birchwood City Council  
FROM: Tobin Lay, City Administrator  
SUBJECT: Kay Beach Dock



**Birchwood Village**

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Dear Mayor and Council Members,

## **Dock Removal**

It will soon be time to remove Kay Beach dock from White Bear Lake. Staff requests Council's input on whether they are aware of anyone willing to volunteer time to remove the dock. Absent any volunteers, staff plans to pay two (2) City Maintenance workers to remove the dock at \$25 per hour.

## **Purchase Ladder**

David, from White Bear Lift and Dock, the company that sold the Kay Beach dock to the City, is offering to sell a step ladder for the Kay Beach dock at:

- 1) \$200 for a 3 step;
- 2) \$220 for a 4 step; OR
- 3) \$240 for a 5 step.

David recommends the 4 step ladder for this dock. He said he has been asked by several Birchwood residents about a ladder for this dock so he reached out to the City to offer the quote.

## **Request/Recommendation**

Staff requests Council:

- 1) Advise of any known volunteers to remove Kay Beach dock; OR
- 2) Approve paying staff at \$25/hr to remove.

AND

- 1) Approve OR deny the purchase of a ladder for Kay Beach dock

Thanks!

Regards,  
Tobin Lay

# MEMORANDUM

DATE: October 10, 2017

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TO: Birchwood City Council  
FROM: Tobin Lay, City Administrator  
SUBJECT: City Diseased Trees



**Birchwood Village**

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Dear Mayor and Council Members,

The tree inspectors have completed their recent tree inspection. They have identified 7 diseased Elm trees and 4 various dead trees on City property or right-of-way that need to be removed. John Lund has submitted a bid of **\$2,310** to remove all 11 trees. Staff also requested a bid from Steve Dean but has not received one yet.

**Request/Recommendation**

Staff requests Council approve up to \$2,310 to remove the 11 diseased and dead City trees. Thanks!

Regards,  
Tobin Lay

# MEMORANDUM

DATE: October 10, 2017

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TO: Birchwood City Council  
FROM: Tobin Lay, City Administrator  
SUBJECT: Hall/Cedar Tree Trim and Removal



**Birchwood Village**

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Dear Mayor and Council Members,

Because there has been so much water this year, staff has followed up on concerns from residents about the many leaning trees along Cedar Street and Hall Avenue – to make sure they were not at risk of uprooting and falling.

Steve Dean and John Lund both inspected the trees along these roadways and found three (3) trees that need to be removed and many more in need of a trim (on City right-of-way).

The law requires that trees overhanging public roadways be trimmed to provide at least a 14 foot clearance over the roadway. Steve and John have identified many trees along this stretch of road that are hanging lower than 14 feet. They recommend these trees be trimmed to 14 feet to comply with the law.

Steve and John are offering to remove and trim these trees and mow the right-of-ways along the shoulders of Cedar and Hall for **\$2,000**.

**Request/Recommendation**

Staff requests Council approve Steve and John's bid of \$2,000 to remove and trim trees and mow right-of-ways along Cedar Street and Hall Avenue. Thanks!

Regards,  
Tobin Lay

# MEMORANDUM

DATE: October 10, 2017

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TO: Birchwood City Council  
FROM: Tobin Lay, City Administrator  
SUBJECT: Birch Easement Catch Basin Cleanout



**Birchwood Village**

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Dear Mayor and Council Members,

The catch basin at Birch Easement has been in long need of a cleanout. This has been the subject of resident's complaints and discussion with the Washington County Conservation District and Rice Creek Watershed District throughout this year.

Staff estimates nearly 12 cubic yards of soil will need to be removed from this catch basin to make it effective again.

T.A. Schifsky and Sons has submitted a bid of \$675 to remove *and dispose* of 12 cubic-yards from the catch basin. Schifskys has access to vacuum trucks that will significantly reduce the labor intensity this job will require. Even with the vacuum truck, Rob at Schifskys estimates it will take 3 hours to complete the job.

Another option is to have City staff remove the soil manually. This would be a significant burden and the City would still have to find and pay for a way to dispose of the residue.

**Request/Recommendation**

Staff requests Council approve up to \$1,000 to clean out the Birch Easement catch basin. Thanks!

Regards,  
Tobin Lay